COMMISSION OF EXPERTS FOR THE LEGAL PROTECTION OF CIVILIAN POPULATION AND VICTIMS OF WAR FROM THE DANGERS OF AERIAL WARFARE AND BLIND WEAPONS

Summary Record

of the meetings held at the Headquarters of the International Committee of the Red Cross at Geneva from 6 to 13 April 1954

GENEVA
1954
Commission of Experts

for the legal protection of civilian populations

and victims of war from the dangers of aerial

warfare and blind weapons

Summary Record of the

First Meeting

held on Tuesday, 6 April, 1954, at 10 a.m.

Present: Major Baxter
Professor Bourquin
Mr. Cahen-Salvador
Professor Castren
General Costedoat
Dr. Enomoto
Capitain Falls
H.E. Y.D. Gundevia
Dr. Jovanovic
Dr. Mouton
Mr. Rumpf
Major-General Tobiesen
Mr. Sen
Dr. Tsuzuki
Mr. Yingling
Major van Zinnicq-Bergmann

Unable to attend: Mr. Krishna Menon, whose place has been taken
by His Excellency Y.D. Gundevia, Ambassador of India

Mr. La Pira, who will be present at a later
meeting

Representing the ICRC:

Mr. Paul Ruegger, President of the ICRC
Mr. Frédéric Siordet, Vice-President of the ICRC
Mr. Pictet and Mr. Pilloud, respectively Director and
Assistant-Director for General Affairs
Mr. Wilhelm, Member of the Legal Department
Mr. Léopold Boissier, Vice-President of the ICRC and Chairman
of the Legal Commission, who has been prevented
from attending the first meetings, will take
part in the work of the Commission on his
return to Geneva.
Mr. Paul Ruegger, President of the ICRC, welcomed the Experts and thanked them for having responded to the International Committee's appeal. He reminded them of the reasons for calling the meeting and of its aims, underlining the difficulty of the task facing them, in view of recent developments in the field of aerial warfare.

He pointed out that in the St. Petersburg Declaration of 1868 the Powers had already undertaken to act in concert to reconcile the laws of humanity with the necessities of war whenever progress in the design of weapons made this necessary. It was desirable to place limits on the use of the air arm and of new weapons. The use of aerial weapons during the two World Wars and the introduction of blind weapons must not lead one to forget the fundamental distinction drawn in the Geneva Convention between combatants and non-combatants. Recent events in this domain clearly showed the need—a need which was generally recognised—of reconsidering the principles of humanitarian law in the light of modern methods of waging war.

It was for Governments to reaffirm the laws of war in relation to aerial warfare, but it was first necessary to make a preliminary survey and that was one of the tasks of the Red Cross.

The Commission's role was to decide which of the existing rules were applicable to aerial warfare, and to submit suggestions for new provisions which should be adopted.

The exchange of views between Experts and the Headquarters of the ICRC was of great importance and would have a marked influence upon the protection afforded to the civilian population against bombing from the air.

The fact that the meeting was of a private nature should make it possible for the Experts to express themselves with the greatest freedom on a problem which concerned all nations.

He wished to emphasize the universal nature of the problems raised by the danger which the civilian population ran as a result of the use aerial weapons, and would ask the Experts to consider past experience and from it draw lessons for the future protection of the civilian population, and make plans calculated to safeguard humanitarian rights.

Mr. Frédéric Siordet, Vice-President of the ICRC, gave some further particulars on administrative matters relating to the Commission's Secretariat, the verbatim reports and the summary records of each meeting, pointing out that reports and detailed records would not be published or distributed without the Experts' full approval. The position in regard to relations with the Press might, he suggested, be decided separately at the end of each meeting. He proposed that the Commission should set up a Bureau and appoint a Chairman, a Vice-Chairman and a Rapporteur, and then
proceed to discuss and to adopt the Agenda. He also proposed that meetings should be held from 9.30 a.m. to 12.30 p.m., and from 3 p.m. to 6 p.m., with a break of fifteen minutes during each meeting.

The meeting was suspended at 11 a.m. to enable those present to discuss the election of the members of the Bureau.

1. Election of the Chairman, Vice-Chairman and Rapporteur

On resuming, the Commission considered the composition of the Bureau.

Mr. Frédéric Siordet asked the Experts to put forward proposals for the appointment of a Chairman.

Mr. Cahen-Salvador pointed out that the Chair should be filled by someone whose independence, qualifications and capacity fitted him for this position. He wished, in his own name and that of all his colleagues, to propose the nomination of Mr. Siordet, which would, apart from other reasons, present the great advantage of enabling a difficult subject to be discussed under the actual aegis of the Red Cross.

Mr. Yingling warmly seconded the foregoing proposal.

Professor Bourquin and Doctor Mouton also supported the proposal.

Mr. Frédéric Siordet, after thanking the Experts, said that the ICRC would like to see the Commission constituted on a completely autonomous basis. In the field under discussion by the Commission, members of the International Committee were consultants and not experts. They did not wish to direct the discussions, but to follow them and to be guided by the views expressed in the course of the meetings. He thought that the proposal made to him was actually addressed to the International Committee as a whole, and consequently he would only be able to accept it on the condition that the Chair could be assumed by other members of the ICRC, such as Mr. Léopold Boissier, Vice-President, and Chairman of the Legal Commission, when they attended a meeting.

Mr. Cahen-Salvador agreed that if Mr. Siordet - who was the unanimous choice of the Commission - wished, his place could be taken at any time by another member of the ICRC.
Mr. Siordet thanked the Experts and asked them to nominate a Vice-Chairman and a Rapporteur.

Mr. Yingling proposed the nomination of Professor Bourquin as Vice-Chairman.

Mr. Cahen-Salvador seconded the above proposal.

Professor Bourquin felt that he must decline the proposal put forward by his two colleagues, as he might not be able to be present at all the meetings. He would be pleased to see Professor Castren nominated as Vice-Chairman and Dr. Mouton as Rapporteur.

Professor Castren said that it would be advisable for the mother-tongue of the Vice-Chairman to be either French or English. He proposed the nomination of Mr. Yingling.

Mr. Yingling felt that the Vice-Chairman should be bilingual. He maintained his proposal for the nomination of Professor Bourquin, with Dr. Mouton as Rapporteur.

Dr. Mouton was of the opinion that Professor Bourquin should agree to become Vice-Chairman. He would like to see Major Baxter nominated as Rapporteur in his (Dr. Mouton's) place.

Major Baxter preferred to stand down in favour of Dr. Mouton, whose nomination as Rapporteur he supported.

Mr. Siordet put the proposal to nominate Professor Bourquin and Professor Castren as Vice-Chairmen to the vote.

The proposal was adopted unanimously.

Mr. Cahen-Salvador proposed the nomination of Dr. Mouton as Rapporteur and of Major Baxter as Assistant-Rapporteur.

This proposal was also adopted unanimously.

Mr. Siordet stated that the Bureau would be composed as follows:
2. **Relations with the Press**

Mr. Frédéric Siordet asked the Experts to express their views in regard to the publication of a press release giving the names of those taking part in the meeting and information on its object and the progress it was making.

Dr. Jovanovic emphasized the importance of enlightening public opinion. He proposed that relevant information on the present meeting should therefore be given to the Press.

Mr. Cahen-Salvador considered that it would be wiser not to give undue publicity to the meetings. A short press notice would be sufficient, and the members present should undertake not to make any personal statements to journalists.

Captain Falls felt that the Commission's decision on this point should be made known. He and other members of the Commission would be questioned by journalists. Would it not be possible for him to give the latter at least a general outline of the work being done? It was for the Commission to decide.

H.E. Y.D. Gundevia said that the question was an important one. He did not consider that absolute secrecy was necessary; the questions discussed should be brought to the notice of the public, but without undue publicity.

Mr. Yingling thought that personal statements to the Press could be avoided by having recourse to press releases issued by the ICRC or by the Commission as a whole.

Dr. Tsuzuki requested that the official statement in question should be issued at the earliest possible moment, so that he could use it that evening to reply to journalists' questions.

Mr. Siordet proposed that a draft press release should be submitted to the Commission in the early afternoon.
It was so agreed.

The meeting rose at 12.30 p.m.

Mr. Jacques Chenevière, Chairman of the External Relations Commission, Miss Lucie Odier, Mr. Edmond Chapuisat, General Henri Guisan and Mr. Rodolfo Olgiati, Members of the International Committee of the Red Cross, were also present at the meeting.
COMMISSION OF EXPERTS FOR THE LEGAL PROTECTION OF CIVILIAN POPULATIONS AND VICTIMS OF WAR FROM THE DANGERS OF AERIAL WARFARE AND BLIND WEAPONS

Summary Record

of the meetings held at the Headquarters of the International Committee of the Red Cross at Geneva from 6 to 13 April 1954

Second Meeting, held on 6 April 1954,
at 3 p.m.

GENEVA
1954
Commission of Experts

for the legal protection of civilian populations
and victims of war from the dangers of aerial
warfare and blind weapons

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Summary Record of the

Second Meeting

held on Tuesday, 6 April, 1954, at 3. p.m.

Chairman: Mr. F. SIORDET (ICRC)

Present: Major Baxter
Professor Bourquin
Mr. Cahen-Salvador
Professor Castren
General Costedoat
Dr. Enomoto
Captain Falls
H.E. Y.D. Gundevia
Dr. Jovanovic
Dr. Mouton
Mr. Rumpf
Major-General Tobiesen
Mr. Tsuzuki
Mr. Yingling
Major van Zinnicq

Representing the ICRC: Mr. F. Siordet
Mr. C. Pilloud
Mr. J. Pictet
Mr. J. Wilhelm

Mr. J. Chenevière, Mr. R. Olgiati and Miss L. Odier, Members of the ICRC, were also present at the meeting.
1. Adoption of the Agenda

Mr. Wilhelm made a brief survey of the Provisional Agenda annexed to the documents sent to the Members of the Commission, which read as follows:

Provisional Programme of Work

1. General introductory discussion as to the desirability of enquiries with a view to defining or determining the rules relating to war from the air, with the object of increasing the protection of defenceless persons.

2. Enquiry, in the light of humanitarian requirements and having regard to the realities of war, into the rules which are, or should be, applicable to the conduct of bombing from the air (including bombing by blind weapons or engines guided from a distance):
   (a) Study of the treaty provisions in force (in particular, of the Hague Regulations of 1907),
   (b) Study of the provisions with regard to war from the air embodied in draft Conventions not sanctioned by Governments (such as the "Hague Rules" of 1923), or in Resolutions of international organisations (such as the Resolution adopted by the 19th General Assembly of the League of Nations in 1938),
   (c) Enquiry into other possible standards for the governance of bombing from the air, or at any rate the guidance of Governments in the matter.

3. Study of the existing possibilities of taking proceedings to prevent or ascertain breaches of the rules resulting from paragraph 2, with a view to ensuring respect for the same.

4. Study, if necessary, of the form (declaration, Convention, etc.) to be given to the fundamental rules and proceedings elaborated by the Committee, with a view to facilitating as far as possible their recognition at a subsequent stage and practical application by Governments.

Professor Castren pointed out that in view of the importance of Items 1 and 2, it was doubtful whether the Commission could at the outset consider also dealing with Items 3 and 4 within the allotted time.

Mr. Tsuzuki underlined the fundamental changes which had taken place in the character of warfare.
In his opinion the essential point was to emphasize, in the light of present-day science, the effect of thermo nuclear weapons and radioactive substances.

General Costedoat also hoped that the Commission would study the radio-active weapon in the first place, with a view to ascertaining the amendments which it would be desirable to make to the Conventions in force, in particular the Protocol of 1925 on asphyxiating gases. They should also deal with the question of dams; for the destruction of enormous dams such as those of the Tennessee valley and the Volga would be a disaster for the entire population concerned.

Mr. Siordet (Chairman) stated that the atomic arm was one of those which the International Committee had in mind when convening the Commission, but it was not the only one. They were, however, concerned with the use made of weapons, rather than with their nature. Mass bombing, or "carpet" bombing, with bombs of the standard type could also be regarded as a blind weapon.

Professor Bourquin suggested opening a general discussion on as wide a basis as possible. The discussion would no doubt bring to light the changes which might be made in the Agenda.

2. Press Releases

The following press release was approved by the Commission:

**Meeting of Experts at the ICRC**

This morning, April 6, saw the opening at the headquarters of the International Committee of the Red Cross in Geneva and under its auspices of a private meeting of persons well-known for their profound and extensive knowledge of law, military practice or civilian defence. These personalities have been invited by the ICRC to take part in their personal and private capacity in a Commission of Experts, the object of which is to study the legal protection, in time of war, of civilian populations and victims of war in general against the danger of bombardments and the use of blind weapons.

The International Committee has, indeed, for some time now viewed with concern the effect which the development of aerial warfare, and the appearance on the scene of blind weapons, might have on the practical application of the humanitarian Conventions. In April 1950 it had already drawn the attention of Governments to this serious problem.
The prescribed aim of the present meeting is, therefore, to ascertain, by a preliminary study, the restrictive rules, inspired in particular by the essential laws of humanity, which apply or should be applied to aerial bombardments which are liable to affect non-combatants.

The Commission includes American, British, Dutch, Finnish, French, Indian, Italian, Japanese, Norwegian and Yugoslav personalities as well as from the Federal Republic of Germany. The International Committee has also made representations, but so far without success, in order to secure the participation of experts from the German Democratic Republic, Poland and the USSR.

3. General discussion

Dr. Mouton thought that they should start by establishing definitions.

What was meant by "civilian populations"?

Rousseau's theory that civilians should not be in any way involved in hostilities, which were solely a matter for the armed forces, was no longer adapted to circumstances. Total war had introduced a new element, namely the participation of civilians in the war effort. To what extent must civilians be considered as combatants in future conflicts? It would be interesting to ascertain this point.

Major Baxter pointed out that civilians often place themselves among the combatants of their own free will, either by refusing to be evacuated from dangerous areas, or because they are anxious to obtain well-paid employment in war industry. Although he is a civilian, a professor of physics at a university is of greater value to a belligerent than many members of the armed forces. The wearing of a uniform could no longer be regarded, therefore, as the only criterion for distinguishing combatants from non-combatants.

Dr. Enomoto agreed that the changes which had taken place in the methods of waging war increased the difficulty of distinguishing combatants from non-combatants. But such a distinction was essential. The humanitarian principles on which international law rests must have precedence over military requirements.

General Costedoat thought that in view of the difficulties involved in drawing a distinction between civilians and combatants, it would be wiser to try to distinguish different types of objectives.
H.E. Y.D. Gundevia observed, with reference to Major Baxter's remarks, that as civilians generally were not entirely free agents in time of war, their will or intentions would not be a fair criterion in establishing the distinction between combatants and non-combatants.

Dr. Jovanovic felt that the definition of the term "civilian population" was of paramount importance, previous speakers had approached the question from the military standpoint; in his opinion the Commission should rather seek to establish humanitarian principles of a general character.

He did not wish to make undue use of arguments of a sentimental nature, but could not help remembering that that very day was the anniversary of the bombing of Belgrade, a day of tragic memories for the people of Yugoslavia. If such acts were to be branded as shameful, it would be necessary to start from the principle that the civilian population may in no case be regarded as a military objective. The rule must be that any attack on civilians is a war crime - a crime against humanity. There might be as few exceptions to this rule, in given cases, but these should be as few as possible.

Professor Castren was glad that, thanks to the initiative of the ICRC, a serious study was being made of this important problem. When seeking the means of preventing and limiting wars, it was necessary to study the question of how to reduce the suffering of the victims of such wars.

There were technical means by which war victims could be protected, but the first question to be considered was that of their legal protection by a code of rules regulating certain methods of warfare. In order to be acceptable to the Powers, the code of rules should not be such as to prevent all possibility of effective action by the belligerents; it should be limited to prohibiting methods of warfare which cause unnecessary suffering, or suffering out of proportion to the military advantage sought.

It was difficult to establish rules for the conduct of a war, but there was no need for despair; the fact that the rules governing modern warfare were broken so often was no doubt due to the fact that they were out of date or impracticable, and perhaps restricted the conduct of a war to too great an extent. They should therefore be replaced by new regulations which would work in practice.

The laws of land warfare needed revision, but they could still be used in their present form. In the case of aerial warfare, on the other hand, the prohibitions and restrictions adopted long ago at The Hague Peace Conferences were entirely out of date, and there was no basis on which to proceed. The ICRC had
therefore acted rightly in concentrating its attention on the regulation of aerial warfare and the use of blind weapons.

Captain Falls, without wishing to go as far as Major Baxter, agreed that many civilians contributed to the war effort. In his opinion the class of work on which they were employed should be the criterion for distinguishing civilians who might rank as combatants. To be of value, any survey should first try to find a satisfactory definition of the term "civilian population".

Mr. Cahen-Salvador suggested a simple and logical working programme. The Commission should decide -

(a) **Who** were to be protected?
(b) **What** were they to be protected against?
(c) **How** were they to be protected?

The Commission must avoid discussing questions which were beyond their competence. In 1949 already the Geneva Conference had decided not to take up the question of the atomic bomb, which was, incidentally, being considered at the present time by the United Nations. But the Commission was fully entitled to try to establish who could be protected, taking as their basis the Fourth Geneva Convention of August 12, 1949, which already protected women, children, the aged and the wounded and sick, and had proposed the setting up of hospital and safety zones.

In order to say against what the civilian population must be protected, they must use their imagination and, looking into the future, adopt definitions which were wide enough to cover not only the weapons of today but those of the future.

How were they to do this? The answer lay no doubt in the further development of ideas like that of safety zones.

Their general aim must, lastly, be to produce rules complementary to the Fourth Geneva Convention.

Mr. Siordet (Chairman) observed that it was necessary to reach agreement on the various definitions. The essence of the problem was obviously the idea of unnecessary suffering. He thought that they should limit their discussion to the legal aspect of the question. The views of technical experts on the evils to be cured would provide information which was indispensable as a basis for even limited conclusions in the legal sphere.

Professor Bourquin agreed that the Commission should limit itself to discussing the legal aspect of the problem, although he considered it to be of secondary importance.
Fundamental problems had been modified by modern war, and the distinction between combatants and non-combatants had become less and less clear-cut. This was also true of the distinction between military and non-military objectives. Moreover weapons have become means of mass destruction affecting humanity in all its essential aspects.

How could humanitarian principles be safeguarded under the conditions of modern warfare?

The problem could not be solved if it was only considered from the legal point of view. Political agreement was also necessary, but the Commission was not made up of politicians and was not therefore competent to deal with this side of the question.

Before the jurists formed their opinion, however, the medical and military experts should explain their views, and show the jurists what possibilities were open to them; for the legal experts could not themselves consider laying down any rule, for fear of creating a false impression, which might perhaps be worse than having no rules at all.

Mr. Yingling associated himself with the sensible remarks just made. The Geneva Convention of 1949, for the protection of civilians, had not yet been applied, but even now one wondered whether it could not be amplified.

General Costedoat suggested that the Commission should study at the earliest possible moment the possibilities open to an aircraft flying at 1,200 km. an hour, and armed with the terrible weapons which are now carried - the atomic bomb or the 6 ton bomb. It was warfare in the future, and not past wars, which the Commission should consider in order to achieve useful results.

Mr. Siordet (Chairman) thanked the speakers. He asked the Vice-Chairman and Rapporteurs to assist him in arranging the future work of the Commission.

The meeting rose at 6.10 p.m.
COMMISSION OF EXPERTS FOR THE LEGAL PROTECTION OF CIVILIAN POPULATIONS AND VICTIMS OF WAR FROM THE DANGERS OF AERIAL WARFARE AND BLIND WEAPONS

Summary Record

of the meetings held at the Headquarters of the International Committee of the Red Cross at Geneva from 6 to 13 April 1954

Third Meeting held on Wednesday, 7 April 1954, at 9.30 a.m.

GENEVA
1954
Commission of Experts

for the legal protection of civilian populations
and victims of war from the dangers of aerial
warfare and blind weapons

Summary Record of the

Third Meeting

Held on Wednesday, 7, April, 1954, at 9.30 a.m.

Chairman : Mr. F. SICRDET

Present : Experts : Major Baxter
Professor Bourquin
Mr. Cahen-Salvador
Professor Castren
General Costedoat
Dr. Enomoto
Captain Falls
Dr. R. Jovanovic
Dr. Mouton
Mr. Rumpf
Major-General Tobiesen
Dr. Tsuzuki
Mr. Yingling
Major van Zinnicq-Bergmann

ICRC : Mr. P. Ruegger
Mr. F. Siordet
Mr. J. Pictet
Mr. C. Pilloud
Mr. J. Wilhelm

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Mr. Siordet (Chairman) stated that the Bureau of the Commission was of the opinion that before investigating the extent to which war could be regulated, it should be viewed as it really was. Today therefore the Experts were asked to show the realities of future warfare. It was only when this had been done that they would be able to see in what ways it could be limited by international law.

Major van Zinnicq-Bergmann explained the aviator’s point of view. According to a statement by the Netherlands Air Force Command, any regulation of the use of the atomic arm, and any classification of prohibited weapons, would have to take into account the practical use which could be made of those arms. Whereas it had been admitted even before 1937, that poison gas would probably not be used, as it had not given the results anticipated, it had to be acknowledged that the atomic bomb would be used, for it was highly effective. According to the French General Chassin, if there were on each side 370 aircraft carrying atomic bombs and, on both sides, 300 of these planes broke through the enemy’s defences, the result would be a death roll of 30 million, not to mention the wounded. The pilot’s only concern was now to drop his bombs as close as possible to his target. Flying at a very high altitude and at a very great speed, in very difficult and unpleasant conditions, carrying A or H bombs, not only could he not aim with any precision, but he had now no need to do so, the radius of destruction of those bombs being so great that he could be sure of attaining his objective in any case. The very idea of a military objective was therefore losing its value.

General Costedoat referred to the opinion expressed by Mr. W. Royse ("La protection des populations civiles contre les bombardements", ICRC, 1930, page 75) to the effect that it had never been possible to limit the use of a weapon which a State considered as vital, and that when any method of combat played an important part in a defensive system all attempts to prohibit it would fail. They had to consider military requirements. Aircraft belonging to the great Powers could fly at a speed of over 1,000 km. an hour, at an altitude of 12-13,000 m. The accuracy of any bombing was therefore doubtful. According to the Journal of the French Air Force and the "Bulletin of Atomic Scientists" (USA), atomic bombs had already been produced in large numbers, and it was thought that their cost of production would be fairly low in the future (about equal to that of a tank). War, if it occurred, would be atomic. The only solution, therefore, was to reach an agreement, especially on the political side, with the object of preventing war—or at any rate this form of warfare. With regard to hydrogen bombs, they would, at the present time, cause total destruction over an area of some 22 km. square. Their thermic radioactivity extended to over 50 km., but they had to be very heavy.
Captain Falls was also of the opinion that the A bomb must be considered a normal, current weapon, but he thought that this weapon would never be a cheap one. It was intended in the first place for strategic use (the destruction of capitals, industrial areas, etc.). But it also become a tactical weapon and its radius of destruction, although less when used in this way, would nevertheless also affect the civilian population. The conception of total war - that is to say war which affected the whole of the enemy's population - had already prevailed in England at the outset of the Second World War; after some opposition that conception had also been adopted finally by the United States. It would seem that future wars would start with a short atomic stage, which would destroy the enemy's main resources, followed by the "broken back" period when the weakened armies would continue the struggle as far as they were able. What such a war would be was beyond all imagination, but an effort should be made to envisage it, even now.

Dr. Tsuzuki presented a paper (circulated to members of the Commission) containing a summary of the contents of his book "Atomic bomb injury from medical point of view", and read out several passages. Referring to the destruction of Hiroshima (which had caused 370,000 casualties up to date), he mentioned that in Tokyo, during the whole of the war, the total number of casualties due to bombing of the ordinary type had been about the same.

In reply to a question by Mr. Yingling he said that the population of Hiroshima on the day it was destroyed had been estimated at 200,000; the area of the town was approximately 4 miles in diameter.

In reply to a question by Dr. Mouton, Dr. Tsuzuki explained further that the pressure caused by the bomb had been 5 tons per square meter in the town of Hiroshima, which was situated in flat country, whereas at Nagasaki, which was at the bottom of a valley, the pressure had been twice as high; the number of casualties at Nagasaki had nevertheless been less by half.

General Tobiesen drew attention to another formidable weapon - the incendiary bomb. At Hamburg 85% of the damage, and 60,000 deaths, had been due to the use of such bombs. When Tokyo was attacked in March 1945, 1,500 tons of incendiary bombs had killed 60,000 people and caused fires over an area of 40 square kilometers, and the new bombs used in Korea were even more destructive. It was essential to seek legal means of limiting the use of such weapons.

Mr. Rumpf pointed out that so far no nation had ever been defeated by means of bombing, but only on the battlefield. If those responsible for such bombardments had shown a true understanding of the human soul, recourse would not have been had to this useless method of warfare, which had caused such great
destruction. It was true that 85% of the damage done in Hamburg was due to incendiary bombs; the number of casualties had been 40,000. In Germany as a whole, 75% of the destruction had been caused by incendiaries. It was necessary therefore to seek better protection against the incendiary weapon (by improved methods of building, etc.). He wondered whether a commission could not be set up to enquire into the reasons why the rare bombardments to which Hamburg had been subjected, had all caused serious fires, whereas the innumerable bombing raids on Berlin had not caused any. In Germany no satisfactory explanation of this had yet been found.

Dr. Jovanovic reminded the Commission that it had been convened in order to try to find a legal basis for the protection of civilians. The essential thing was to prohibit terror bombing. The point of departure of a legal system for the protection of civilians against blind bombing must be the prohibition of such bombing. The object to be attained was "the selective bombing of military objectives" as against mass attacks. The following could not be targets for bombing: hospitals, safety zones, hospital zones, neutralized zones, prisoner of war camps and civilian hospitals. Another question to be settled was whether precision bombing of a military objective was possible, or must the mass bombing of target areas be envisaged? If selective bombing was possible it would be advisable to define the term "military objective" more precisely.

A solution to this deadlock would be safety zones, but it was essential to study the organization and the possibilities of these zones. The problem was therefore a difficult one. The creation of an illusion of security had to be avoided and it would only be possible to avoid it by complete freedom and frankness in dealing with the subject.

Major Baxter thought that another aspect of the problem must be envisaged. How was a specified objective, for example a factory, to be attacked correctly? Where was it situated, what was manufactured there and what was its output? Besides, a factory which was said to be non-military might later start to supply the armed forces; should it be destroyed? Again, an airman flying at high speed and at a high altitude, guided by radar and with a task to carry out, could not distinguish the targets he had to destroy from buildings of cultural value, hospitals protected by the emblem, etc., when he could not see them. Systematic bombardment would often be the only way in which one could be certain of hitting a given objective. What could be done under such conditions? It had to be admitted that in future conflicts States would engage in total war.

Mr. Siordet (Chairman) observed that in the face of all those difficulties, the question of safety zones, to which Mr. Jovanovic had referred, should be studied. How valuable would such zones be?
Dr. Mouton expressed the opinion that, at least in regard to the Netherlands, such zones could not be set up on account of the great density of the population and the fact that important factories and plants were scattered over the whole country. How could the zones be supplied with food etc., and how could the rapid and total evacuation of cities be carried out, at a time when all lines of communication would be congested?

Mr. Enomoto feared that the setting up of the zones might convey the impression that the rest of the country was open to indiscriminate, and authorized, bombing.

Mr. Yingling pointed out that the position in the United States was not the same as in the Netherlands. Surveys were being made and certain plans had already been drawn up. The idea of safety zones should not, he felt, be abandoned.

Mr. Cahen Salvador emphasized the pessimistic nature of the present discussion! If nothing could really be done, if humanity was doomed to destruction, the only possible course, unless they were resigned to their fate, was to give the widest publicity to this terrible conclusion, and let the people turn against those who were responsible. He thought however that safety zones gave a hopeful aspect to the question; this was proved by what had already been done in certain countries. An international effort could be considered, and zones which were practicable in some European countries of an isolated nature could be set up on a large scale.

Moreover Switzerland had shown that its "Redoubt" (which was largely underground) was indestructible. Zones of this description, on the surface or underground, national or international, were and must be possible. This was proved by the fact that in 1949 all the States, assembled in a Conference, had signed the Fourth Convention and the annexed Agreement relating to such zones. The question should therefore be examined by the Commission. Further, they should investigate means of attenuating the effects of the atomic bomb. According to competent authorities on the subject, such means exist, and include the adoption of certain methods of building, improvements in medical practice, etc. Investigations on these lines were being carried out in France and elsewhere and results had already been obtained. There were possibilities in that direction which would allow war to be made less terrible in the future.

The meeting rose at 12.55 p.m.
Summary Record

of the meetings held at the Headquarters of the International Committee of the Red Cross at Geneva from 6 to 13 April 1954

Fourth Meeting
held on Wednesday, 7 April 1954
at 3 p.m.

GENEVA
1954
Commission of Experts
for the legal protection of civilian populations and victims of war from the dangers of aerial warfare and blind weapons

Summary Record of the
Fourth Meeting
held on Wednesday, 7 April 1954, at 3 p.m.

Chairman: Mr. Siordet (ICRC)

Present: Major Baxter
Professor Bourquin
Mr. Cahen-Salvador
Professor Castren
General Costedoat
Dr. Enomoto
Captain Falls
Dr. Jovanovic
Dr. Mouton
Mr. Rumpf
Major-General Tobiesen
Dr. Tsuzuki
Mr. Yingling
Major van Zinnicq-Bergmann

Unable to be present: H.E. V.D. Gundevia
Mr. S. Sen

Representing the ICRC:

Mr. Paul Ruegger, President of the ICRC
Mr. F. Siordet, Vice-President of the ICRC
Mr. J. Pictet and Mr. C. Pilloud, Director and Assistant Director for General Affairs
Mr. J. Wilhelm, Member of the Legal Department
Mr. L. Boissier, Chairman of the Legal Commission, who was unable to attend the first meetings, will be present on his return to Geneva.
Also present at the meeting:

Miss Lucie Odier, Member of the ICRC
Mr. Rodolfo Olgiati, Member of the ICRC

Mr. Siordet (Chairman) opened the meeting and reminded the members present that two speakers, had asked for the floor. He would first call upon Mr. Castren, and then Mr. Rumpf.

Mr. Castren felt some doubt as to the possibility of giving effective protection to the civilian population by means of safety zones.

Mr. Rumpf pointed out that even if the implementation of the Geneva Convention had apparently come to a dead-lock so far as safety zones were concerned new provisions could be considered for the realization of long-term plans. In this connection he made a distinction between industrial and residential zones; in the first of these two cases, the population which shared in the war effort ran the risk of having to suffer bombardment; in the second case, the inhabitants would have no connection with war industry and there would be no excuse for bombing.

Mr. Yingling observed that this conception would call for transfers of population and would be difficult to organize, and that many problems would arise if it had to be put into practice.

President Ruegger wished to point out that the ICRC could take an active part in the study of the question. In parts of the world which appeared to be remote from all danger, long-term work was being done at the International Committee's instance, and questions of the greatest intricacy were being examined from a highly objective point of view. It was advisable for this effort to be continued, and for Governments to be encouraged to study the problem, for safety zones could render great service in the event of war in particular areas— as had been seen during the Palestine conflict.

General Costedoat thanked President Ruegger and enquired whether the countries of the two American continents had, for instance, envisaged the study of measures in favour of the populations which would be obliged to leave Europe on the outbreak of a conflict.
President Ruegger said that he had no information on the subject. He considered that protective measures would in the first instance be taken by Governments on behalf of their own populations. It was obvious that the experience gained in that field would be of value when planning to extend such arrangements to new populations.

General Costedoat suggested that in view of the low density of population in the vast areas of the two American continents, and the difficulty of organizing safety zones in Europe, where the population was so dense, it would be desirable to urge the Governments of both American continents to make arrangements to receive the disabled and the weakest categories of the population of European countries in the event of war.

Dr. Mouton did not think that the evacuation of the population of a territory to countries overseas would be feasible in wartime.

Major van Zinnicq-Bergmann was of the opinion that the setting up of safety zones would be possible in the event of wars other than atomic wars (i.e. wars restricted to a particular area), in which the existence of open towns was conceivable.

Mr. Siordet (Chairman) thanked the Experts for the indications given. He suggested that they should pass on to the question of existing legislation on the subject, and called upon Mr. Wilhelm to speak.

Mr. Wilhelm referred to the proposed plan for carrying out this study. He suggested that they should examine the question of the prohibition of any act of war aimed at the civilian population, in order to find an answer to the query: "Who should be protected?", and that of the prohibition of terror bombing, connected with it. They could then study the definition of a military objective, which could be linked with the question of defended or open towns and that of safety zones. Finally, they could discuss the precautions to be taken when the bombing of military objectives may affect the civilian population and the prohibition of the use of arms calculated to cause unnecessary suffering.

First of all they should find a definition of the terms "bombing from the air" and "aerial bombardment". The above programme, which was submitted for the Experts' approval, included all the questions to which reference had so far been made.
Professor Castren thought that the examination of questions relating to the civilian population should be linked with those relating to military objectives, and that the question of terror bombing should be examined apart.

Mr. Cahen-Salvador reverted to the 3 questions: Who should be protected, from what, and how? In this connection he enumerated a number of practical points which could be examined later. He thought they should consider all the measures to be taken for the protection of the civilian population, and in particular to set up safety zones or medical zones, and that Governments should be approached on the subject, and that their aim should be the conclusion of international agreements standardizing the measures adopted to protect civilians against aerial bombardment.

Mr. Siordet (Chairman) thanked Mr. Cahen-Salvador for his remarks. He proposed that the meeting should be suspended, and that after the interval the discussion should be resumed with Professor Bourquin in the Chair.

The meeting rose at 4.45 p.m. and was resumed at 5 p.m.

Mr. Siordet (Chairman) requested Professor Bourquin to take the Chair.

Professor Bourquin (Chairman) called upon Mr. Wilhelm to speak.

Mr. Wilhelm referred to the question of terminology, and asked whether it would not be advisable to replace the term "bombing from the air" by the broader term "attack from the air".

General Costedoat thought that the wording "attack from the air" was better than "bombing from the air".

Captain Falls was also of the opinion that the new wording suggested would cover a wider range of methods of attack than the term "bombing from the air".

Mr. Yingling remarked that their studies in this legal domain should remain on a general level.

Professor Bourquin agreed that the discussion should not be limited by definitions of too restrictive a nature. Technical definitions would be useful later when the time came to formulate their conclusions.
Mr. Wilhelm referred to the first rule, which prohibited deliberate attacks from the air upon the civilian population. That principle had been reaffirmed on numerous occasions between the two world wars; it had served as a basis for the Geneva Conventions, and for the trial of persons accused of violations of international law. In the field of aerial warfare, the definition of the term "civilians" raised many problems. A distinction had to be made between "passive civilian populations" and "active civilian populations"; there was also the question of the indirect participation in the war effort, of members of the civilian population—scientists for example. This first rule, which was to be found in all the pre-war draft Conventions, could no doubt be reaffirmed today.

Dr. Mouton thought it would be possible to link this concept with that laid down in the Hague Regulations. It would be an advantage to adopt a provision already in force, adapting it, as necessary, to the requirements of modern warfare.

Mr. Wilhelm thanked Dr. Mouton for his suggestion. He reminded the meeting that the working programme originally proposed referred to the Hague Regulations.

Professor Castren observed that the existing law prohibited attacks upon the civilian population. That fundamental principle must be maintained, and the term "civilians" should not be understood in a restrictive sense.

Mr. Yingling said that during their discussions they should try to define international law as it should be, and not as it stood at present.

Dr. Jovanovic wished to lay down the basic principle that attacks on the civilian population were to be condemned and were a violation of international law. He agreed with Dr. Mouton that the principle should be included in the present legislation on the subject.

Major Baxter also agreed with Dr. Mouton, but he did not consider that the Hague Regulations provided sufficient protection for the civilian population.

Dr. Mouton requested Professor Bourquin to give his opinion on the international law by which the question was governed.
Professor Bourquin (Chairman) pointed out that it was not advisable, at the outset, to dwell too long upon existing forms of wording. The problem should be considered without reference to any preconceived formula: they should, in his opinion, make a general study of the question, and try to find a definition of the term "civilian population", by asking themselves the question: "Which members of the civilian population would we, in principle, like to see protected from the violence of war?"

General Costedoat was of the opinion that the idea of the immunity of the civilian population must be considered in relation to the situation as it was at the present time. Originally, those of the population who were beyond the range of artillery fire enjoyed such immunity. Today that immunity no longer existed because of the extension of the bombardment area. In those new circumstances a sentiment of pity had intervened, which was extended to some elements among the civilian population - to the disabled, the sick, mothers and babies, and children of school age, for example.

Mr. Cahen-Salvador agreed with Professor Bourquin. There were too many definitions in existence for a choice to be made of one of them at the present time. Moreover, they varied according to the sense of the provisions to which they related. It was therefore inadvisable to try to find a single definition at the present stage of the discussions. A general formula might be evolved later.

Professor Bourquin (Chairman) thanked the speakers.

The meeting rose at 6.30 p.m.
Summary Record

of the meetings held at the Headquarters of the International Committee of the Red Cross at Geneva from 6 to 13 April 1954

Fifth Meeting
held on Thursday, 8 April 1954
at 9.40 a.m.

GENEVA
1954
Commission of Experts

for the legal protection of civilian populations
and victims of war from the dangers
of aerial warfare and blind weapons

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Summary Record

of the

Fifth Meeting

held on Thursday, 8 April 1954, at 9.40 p.m.

Chairman: Mr. F. Siordet (ICRC)

Present: Major Baxter
Professor Bourquin
Mr. Cahen-Salvador
Professor Castren
Dr. Costedoat
Dr. Enomoto
Captain Falls
H.E. Y.D. Gundevia
Dr. Jovanovic
Dr. Mouton
Mr. Rumpf
Major-General Tobiesen
Dr. Tsuzuki
Mr. Yingling
Major van Zinnicq-Bergmann

Representing the ICRC:

President P. Ruegger
Mr. L. Boissier
Mr. F. Siordet
Mr. J. Pictet
Mr. C. Pilloud
Mr. J. Wilhelm

Dr. Gloor, Vice-President, and Miss L. Odier, Member
of the ICRC, were also present at the meeting.
(1) Summary Records

Mr. Wilhelm pointed out that the Summary Records which had been distributed were merely drafts. They would only become final if no comments were made concerning them. The Experts were therefore requested to hand the copies in their possession back to the Secretariat, marked with any corrections which they wished to have made.

At the close of the Conference a complete set of Records would be prepared and given to each Member of the Commission.

(2) Continuation of discussion on Items 1 (a) and 1 (b) of the amended Agenda

1 (a) Prohibition of attacks directed against the civilian population as such;

1 (b) Limitation of aerial attacks to military objectives.

Dr. Enomoto pointed out that the protection of the civilian population was an accepted principle - a basic rule of international law. Article 25 of the Hague Regulations ("The attack or bombardment, by whatever means, of towns, villages, dwellings or buildings which are undefended is prohibited") was undoubtedly applicable to bombing from the air. The difficulty lay, however, in the conception of the term "undefended". It was therefore advisable to try to find a new definition of the term "civilian population". He hoped that the definition would not be too restrictive, that it would be as comprehensive as possible.

Professor Bourquin observed that in the present state of the law, humanitarian rules should be observed, even in regard to the enemy, when they did not conflict with the exigencies of war. That fundamental principle of Red Cross action was today in danger owing to technical developments in methods of warfare. It would therefore be wise to reaffirm it.

In connection with the question of bombardments, that principle led to the conclusion that the bombing of the civilian population, where no military objective was involved should be considered as condemned. As Major-General Rumpf had said, experience had shown that the morale of the population could not be lowered by bombing or, at any rate, that the results were out of all proportion to the suffering caused. They thus reverted once again to the notion of unnecessary suffering, which it would also be advisable reaffirm.
However, although the principles left no doubt, there remained the difficulty of the application of those principles in view of the developments in the technique of war. The Commission should not hesitate to make those difficulties known.

The difficulties arose from the fact that the term "military objective" had no longer the same meaning as in the past; it had become wider and more difficult to define. Was a definition even possible? The ensuing discussions would make this clear.

But another difficulty had arisen. Even the selection of objectives had in certain cases become impossible. No doubt, as the President of the ICRC had pointed out, they should beware of excessive generalization. These were some conflicts which could no doubt be limited; but in the most important cases it was impossible to "aim" at the objective. The pilot of a bomber aircraft could not be assimilated to a rifleman. Lastly - and that was the essential point - arms which might possibly be used by belligerents had often become "blind weapons". Science was making those "blind weapons" more deadly every day. With them all discrimination of military objectives became impossible. Those weapons constituted a mortal danger for the whole of mankind. They should not deceive themselves however, that mortal danger could not be averted by laying down legal rules. It could only be stopped by political agreements - jurists would confine themselves to giving legal form to such agreements.

The Commission should, lastly, seek to reaffirm the principles of international law and of the Red Cross, but it should also note the fact that, under present circumstances, there were difficulties in regard to the application of those principles, which could not be disregarded.

Dr. Mouton thought that two additions could be made to Professor Bourquin's survey:

(1) Among the reasons put forward in support of bombardments of the population, was that they would help to shorten the war, through the terror they inspired. It would be worth while trying to ascertain whether terrorization attained its object of demoralizing the population, and whether it was right to sacrifice a great many human lives with the object of possibly sparing others which were threatened by a prolongation of the war.

(2) Military objectives were often interspersed among civilian dwellings; the case was similar to that of hospital ships which may be interspersed among the vessels of the naval forces with the object of protecting them, or to that of "screens" of women and children placed in front of troops.

Professor Castren suggested that they should adopt as a criterion for the definition of "civilian population", the term used in the Fourth Geneva Convention, and speak of "persons taking no active part in the hostilities". That definition would cover everyone except combatants (or civilians who took part in illegitimate operations).
Dr. Mouton having raised the question of bombardments which struck at the dwellings of workers in arms factories or naval dockyards, Major van Zinnicq-Bergmann replied that the notion of a military objective had developed. A munitions worker was of some importance to the war effort, and had to be eliminated. Military experts had no hesitation in condemning workers' dwellings.

Professor Castren asserted that such a practice was condemned by international law. He was not sure that violations in this matter had invalidated the law. Moreover, it was not even certain that the practice was efficacious. States engaged in war could, if necessary, always have recourse to forced labour to replenish the decimated ranks of their workers, and the fact that such requisition of persons was possible/the inequitable character of the bombardment of workers, brought out

Major Baxter acknowledged that, with the exception of accidents caused during the bombing of military objectives, the civilian population should, as a matter of principle and by law, be immune from aerial attacks, but there must, no doubt, be exceptions to this rule. Let them merely consider the following examples:

(1) A group of scientists working on the construction of an essential weapon;

(2) A gang of men employed on loading and unloading ships.

These persons, whether civilians or soldiers, would in both cases be doing work necessary for the war effort. Could it be said that they should not be treated as combatants if they had kept their civilian status?

Dr. Jovanovic said that he would never admit such derogations from humanitarian principles. If they were to be accepted, why not accept also the principle of bacteriological warfare?

Major van Zinnicq-Bergmann agreed with Dr. Jovanovic that it would be preferable if they could abide by humanitarian principles, without exception, but they had to admit that in future war would be waged in the air, that air space was free and that bombs could destroy whole cities. They should have no illusions, and if they found that it was impossible in practice to legally protect the civilian population, they should admit it.

Moreover, such a finding would, perhaps, make Governments understand that man was no longer a free agent, and encourage them to remedy matters by concluding appropriate political agreements.
Dr. Jovanovic agreed with the point of view just expressed which, incidentally, raised another and quite different question, which would no doubt be examined later. For his part, he would never admit that non-combatants of opposing nation could be deliberately exterminated.

Dr. Costedoat pointed out that during wars in the past, even doctors themselves, and hospitals, could not be given absolute protection if they were within the range of artillery fire. At Dien-Bien-Phu today they felt that they shared the same dangers as the troops in action.

Mr. Siordet (Chairman) agreed with General Costedoat. He pointed out that the actual question under discussion was that of the definition of the civilian population proper.

Dr. Enomoto observed that if they admitted the possibility of bombing munition factories/works, practically all cities could be bombarded.

He referred to Article 24, Par. 2, of the draft established at The Hague on December 11, 1922, by the Commission of Jurists entrusted with studying and reporting on the revision of the Laws of War. In particular the draft provided that an air bombardment was legitimate only when directed against plants constituting important and well-known centres for the production or arms. The text, even if out of date, still provided timely guidance today. The Japanese Government, for its part, was inspired by it when stating in its Naval Instructions of 1937 that if an objective of this description was not of very great importance, and if it was feared that it would cause excessively heavy casualties among civilians, it was advisable to refrain from bombarding the objective.

Mr. Pilloud (ICRC) stated that the principle that civilians should not be fired upon was implicitly acknowledged by the Hague Conventions. The convictions in the post-war trials were based on that principle.

In order to determine who was a civilian, as such, it would suffice to find which persons the combatant had no right to kill in time of war.

The majority of the problems connected with the protection of civilians and the definition of objectives, were no doubt of a political character. But this did not prevent them retaining their humanitarian aspect. The Red Cross could not therefore disassociate itself from such questions.
Mr. Siordet (Chairman) reminded those present that the question under discussion was that of attacks against, the civilian population as such. He would like to have the Experts' views on the military value of bombardments of the civilian population.

H.E. Y.D. Gundevia wished first of all to express his entire agreement with Professor Bourquin. He was also grateful to the military experts for having so freely outlined the difficulty, probably insuperable, of distinguishing between civilians and combatants. These military experts had to be straightforward; and they had been.

On considering blind weapons, the V I and V II and the atomic bomb, which by their very nature forbade all hope of selecting their victims, the only conclusion was that there was no possibility of finding efficient protection for the civilian population.

The solution was obviously to be found in the abolition of war, or at least in the limitation of the destructive power of arms; but such decisions were of a political nature and the Commission of Experts was not a political Conference. What could be done then? Were they to continue their work, for ten days, without respite, in order to find adequate definitions and re-affirm humanitarian principles? If their work led to no result, they should say so; nothing could have a greater effect on public opinion than a statement of this description on the part of the experts, and Governments would thus realize that no other course was open but the limitation of armaments.

Mr. Cahen-Salvador said that between those who called attention to the tragic realities of the day, and of the future, and those who still adhered to old principles, an average view of the question could perhaps be given support, which would tend to attenuate those realities by a categorie affirmation (by Governments of course) that certain principles still existed.

For them to consider the new realities as inviolate would be as great a failure as for them to consider that humanitarian principles could be adapted to realities without losing their value. They had succeeded in making laws to govern war - they should not despair of maintaining them.

As to the definition of the term "civilian population", an enumeration of persons could be made, preceded by the words "in particular", which would leave the way open for all legitimate assimilations which experience showed to be necessary.

Mr. Rumpf said that he wished, in answer to the Chairman's request, to give his opinion on the military value of certain bombing attacks on the civilian population.
His opinion was based on his own experience and on the reports published by the victorious nations. The bombing of the civilian population had practically no effect on the war effort in Germany. That effort reached its peak in 1944, at a time when bombing had been brought to a maximum.

Bombing raids were in particular aimed at towns. The figures were as follows:

995,000 on towns and cities
143,000 on industrial objectives (98,000 on oil plants and 26,000 on aircraft factories)

The bombing of towns had in no way interfered with heavy industry. It was only in 1943 that bombing by the American 8th Air Arm began to have a serious effect upon German industry.

It should further be noted that the Leunawerke synthetic rubber and synthetic spirit works never ceased production, although subjected to incessant bombing, and the sites of these works were dotted with thousands upon thousands of craters which gave the landscape a lunar aspect. It was estimated that after the aerial attacks of 1943 Germany's industrial potential had been reduced by 17%.

Bombing raids, as carried out over Germany during the last war (that is to say upon towns in particular), had no definite effect on the German war effort. As to the idea that they brought the end of the conflict nearer, it was evident that this result would have been more readily obtained if they had been directed against industrial plants, instead of against towns and cities.

The meeting rose at 12.35 p.m.
COMMISSION OF EXPERTS FOR THE LEGAL PROTECTION OF CIVILIAN POPULATIONS AND VICTIMS OF WAR FROM THE DANGERS OF AERIAL WARFARE AND BLIND WEAPONS

Summary Record
of the meetings held at the Headquarters of the International Committee of the Red Cross at Geneva from 6 to 13 April 1954

Sixth Meeting
held on Thursday, 8 April 1954
at 3 p.m.

GENEVA
1954
Commission of Experts

for the legal protection of civilian populations
and victims of war from the dangers of aerial warfare
and blind weapons

Summary Record

of the

Sixth Meeting

held on Thursday, 8 April 1954, at 3 p.m.

Chairman: Mr. Siordet (ICRC)

Present:

Experts: Major Baxter
Professor Bourquin
Mr. Cahen-Salvador
Professor Castren
Dr. Costedoat
Dr. Enomoto
Captain Falls
H.E. Y.D. Gundevia
Dr. Jovanovic
Dr. Mouton
Mr. Rumpf
Major-General Tobiesen
Dr. Tsuzuki
Mr. Yingling
Major van Zinnicq-Bergmann

ICRC: Mr. P. Ruegger
Mr. F. Siordet
Mr. J. Pictet
Mr. C. Pilloud
Mr. J. Wilhelm
Major-General Tobiesen remarked that to define the civilian population was a most difficult problem; it was however essential that they should find a definition and that it should be both comprehensive and accurate; it should, moreover, be linked with the Fourth Convention of 1949. With regard to A and H bombs, Governments would no doubt hesitate to use them for fear of reprisals; the normal types of weapons would therefore still be employed. A definition of what could be lawfully attacked, i.e. of what constituted a military objective, should be given by the Government of a country and not by the military authorities.

Captain Falls observed that the value of bombing had been considered by the Commission from two angles; the military aspect and the moral aspect. Mr. Rumpf pointed out that the moral effect of bombing was practically nil; that was perhaps only due to the discipline to which the Germans were subjected, and their tenacity. Moreover there had never been any actual terror-bombing, properly speaking; there had always been an objective, even if it was only to force the enemy to scatter industrial plants, and so make the transport of the articles manufactured difficult. He wished to add that the military value of such bombardments had never corresponded to the effort they represented, nor the suffering caused. As to the weapons of the future, atomic or others, which would no doubt have a very great moral effect, they had in fact already been accepted. Could they bring about a decision? if combatants still had resources available they would go on fighting, even if all their important towns and industries had been destroyed; moreover, if they had been able to accumulate weapons of the normal type forward of their bases, they could invade the enemy territory even if the bases were destroyed.

Dr. Mouton was of the opinion that, after having been given so much interesting information, they could now pause and try to lay down a first principle. He would propose the following text which made no pretence of being final, but might help to crystallize their ideas at that stage of the discussion:

"Bombardment with the exclusive purpose of terrorizing the civilian population is prohibited".

Dr. Tsuzuki noted, from the opinions expressed, that the protection of the civilian population against modern weapons was perhaps not quite as impossible as he had imagined. From the medical point of view it no doubt remained impossible, but it would appear that legal protection was feasible. He called upon the Commission to make a constructive effort in the true Red Cross spirit.

Mr. Siordet (Chairman) thanked Dr. Mouton for his proposal. The ICRC had also hoped to reach a conclusion on that point
(Item 1 of the Provisional Agenda submitted by Mr. Wilhelm); but it had not wished to hurry the discussion.

Mr. Wilhelm wondered whether the wording suggested by Dr. Mouton really answered the first question. Terror bombarding was a particular case of the bombing of the civilian population, certain cases of which were admissible (i.e. the bombing of civilians participating in the war effort). In any case, the prohibition of terror bombing, as Professor Lauterpacht had already pointed out, was apparently a rule which could be maintained and admitted.

Mr. Siordet asked whether the proposal related to Item 1 or 2 of the Agenda, or to both.

Dr. Mouton remarked that his proposal, which was no doubt still incomplete, was more particularly concerned with Item 2, though it was also intended to get closer to the first question. It was in fact intended to serve as a starting point – to formulate a first principle on which every one agreed.

Dr. Jovanovic reminded the Commission that the previous day he had formulated a proposal, to which he would now like to revert, in order to support and complete the text proposed by Dr. Mouton. It read as follows:

"All aerial attacks made for the purpose of terrorisation are prohibited and are a violation of the laws of war".

Mr. Cahen-Salvador objected to Dr. Mouton's wording on the grounds that it involved the intention of the person responsible for the prohibited act. That Intention could never be established or proved. In this connection he referred to Article 25 of the Regulations annexed to the Fourth Hague Convention of 1907, the terms of which could serve in the present case; it would be noted that in that Article the prohibition applied to specific objectives.

Dr. Enomoto approved Dr. Mouton's wording, provided the word "exclusive" was deleted; alternatively the following principle could be formulated: "Aerial bombardments are legitimate if they are aimed at military objectives; terror bombing of civilian populations is prohibited".

Dr. Castren also requested that the word "exclusive" should be deleted.

Mr. Yingling on the other hand, opposed its deletion. He shared Captain Falls' opinion that actual terror bombing never
took place. The destruction of the civilian population was in actual fact always linked with the destruction of another objective. It appeared to be contrary to the realities of war to make illegal the bombing of a military objective, which also had the effect, or even the object, of terrorising the civilian population.

Mr. Siordet (Chairman) suggested that, while the meeting was suspended, Dr. Mouton and Dr. Jovanovic should draft a new joint text.

(The meeting was suspended)

Dr. Mouton submitted the following text:

"All aerial attacks upon the civilian population as such, and attacks of terrorization in particular, are prohibited".

He added that Dr. Jovanovic had felt that the following words should be added: "... and should be considered to be a violation of the laws of war". He himself did not share this opinion.

Mr. Yingling was of the opinion that they should specify that the attacks referred to were "for the purpose of terrorizing the civilian population", for terrorization could be accidental and unintentional. Thus, to kill was not in itself a crime, but murder was a crime. The criminal intention should be indicated. Further, they should reach agreement on the meaning to be attached to the term "civilian population". Would an attack on the seat of a Government, or a group of scientists be legitimate?

H.E. Y.D. Gundevia enquired what was the meaning of the expression "as such".

Dr. Mouton said that their intention had been to prohibit the intentional killing of civilians. The text had been drafted without taking into account any definition which might be given afterwards, had already been given.

Dr. Costedoat proposed amending the text to read as follows:

"All aerial attacks upon the civilian population not participating directly or indirectly in the national defence, and attacks of terrorization in particular, are prohibited".
Major van Zinnicq-Bergmann also considered that the notion of "purpose" should figure somewhere in the text; be proposed inserting the word "deliberate".

Captain Falls feared that Dr. Costedoat's wording would be too broad; to introduce the notion of "national defence" would leave the way open for interpretations of all descriptions.

Mr. Cahen-Salvador thought that text proposed by Dr. Mouton and Dr. Jovanovic would make a good starting point. He objected to the addition proposed by Mr. Yingling; for intention could never be known, or proved. It was the actual fact which should be punishable.

Dr. Mouton explained that his text was not intended for use by tribunals, but was essential an appeal to the conscience of those responsible for bombardments.

Major van Zinnicq-Bergmann said that in his opinion the "purpose" of an attack could always be proved. A bombardment was prepared in advance; it was the subject of planning, notes, discussions, etc., all of which would remain on record.

H.E. Y.D. Gundevia suggested, in order to give satisfaction to all concerned, that the text should read "all aerial attacks aimed at ...".

Mr. Yingling said that he approved of the first text submitted by Dr. Mouton, but not the second.

Mr. Wilhelm pointed out that the text proposed by Dr. Mouton and Dr. Jovanovic actually concerned Items 1 and 2 of the Agenda. Terror bombing was one particular instance of attacks against the civilian population. With regard to the words "as such", they were intended to make a restriction; thus, civilians located within a military objective were not protected. On the other hand, was it necessary to define the term "civilian population" at the present juncture? It seemed advisable not to do so for the time being. They could perhaps refer explicitly to "the civilian population, that is to say persons taking no direct part in the hostilities". Whether terror bombing should be punishable only if intentional, was a point which called for consideration. As regards form, it could be the subject of a second sentence. H.E. Y.D. Gundevia's suggestion (that they should say "... aerial attacks aimed at...") seemed an excellent one.
Dr. Mouton said that he approved of the idea of splitting his text into two sentences, or even of drafting it in the form of two separate Articles. He wondered whether it would not be possible to follow the example of many legal texts, and start by giving definitions - of the civilian population in particular, drafted in either positive or negative form, to which they could refer when necessary.

Dr. Jovanović, referring to the additional words which he had proposed and which Dr. Mouton had mentioned, explained that bombardments whose effect is to cause terror, even if they were not always contrary to the laws of war, were always contrary to the laws of humanity. Further, the inclusion of this affirmation in the text might have an important psychological effect, on learner-pilots for example.

H.E. Y.D. Gundevia wondered whether the Commission should not restrict itself to laying down principles, and leave the drafting of the texts to the ICRC.

Dr. Mouton objected on the grounds that it was not possible to draft a text unless one knew exactly what one wanted to say, and how to say it.

Mr. Yingling did not think the Commission could give a definition of the term "civilian population". They would reach a more positive result by seeking to determine which part of the civilian population must be saved, and how.

Mr. Siordet (Chairman) thought that in between the two possibilities which were emerging - either to fix definite rules, or to draw up a final report setting forth all the opinions expressed - they could find a third less rigid formula, showing the general trend of opinion. They were all agreed that the civilian population should in principle be protected, but that part of it could not be protected.

Dr. Costedoat considered that they must specify that the civilian population was to be respected, with the exception of categories which were still to be defined. It was also necessary to introduce the notion of "national defence".

Professor Castren thought that the term "civilian population" could be followed by the words "taking no direct part in the hostilities".

Mr. Siordet (Chairman) announced, in conclusion, that the wording submitted by Dr. Mouton and Dr. Jovanović was adopted with the addition of the words "taking no direct part in the hostilities".

The meeting rose at 6.20 p.m.
Summary Record

of the meetings held at the Headquarters of the
International Committee of the Red Cross at Geneva
from 6 to 13 April 1954

Seventh Meeting
held on Friday, 9 April 1954
at 9.30 a.m.

GENEVA
1954
Commission of Experts

for the legal protection of civilian populations
and victims of war from the dangers of aerial warfare
and blind weapons

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Summary Record
of the
Seventh Meeting

held on Friday, 9 April 1954, at 9.30 a.m.

Chairman: Mr. Siordet (ICRC)

Present Experts:
Major Baxter
Professor Bourquin
Mr. Cahen-Salvador
Professor Castren
Dr. Costedoat
Dr. Enomoto
Captain Falls
H.E. Y.D. Gundevia
Dr. Jovanovic
Dr. Mouton
Mr. Rumpf
Major-General Tobiesen
Dr. Tsuzuki
Mr. Yingling
Major van Zinnicq-Bergmann

Representing the ICRC:

Mr. P. Ruegger
Mr. F. Siordet
Mr. L. Boissier
Mr. J. Pictet
Mr. C. Pilloud
Mr. J. Wilhelm

Miss Lucie Odier, and Mr. Rodolfo Olgiati, Members of the ICRC, were also present at the meeting.
Mr. Siordet (Chairman) declared the meeting open.

Mr. P. Ruegger, President of the ICRC, addressing general Tobiesen, expressed the International Committee's condolences and heartfelt sympathy with Prince Olaf of Norway in his bereavement.

He then informed the Experts that Mr. La Pira would arrive in Geneva that day; and that Judge Sandström, who regretted that he was unable to take part in the work of the Commission, had sent his best wishes for the success of the meeting.

Mr. Siordet (Chairman) proposed that they should continue the discussion by examining the question of the limitation of air attacks to military objectives. He called upon Mr. Wilhelm to speak.

Mr. Wilhelm referred to the rule prohibiting all aerial attacks upon the civilian population, and pointed out that the immunity the latter enjoyed was only relative, since civilians were liable to be affected by attacks on military objectives.

The notion of military objectives was to be found in the treaty law in force and, in particular, in the Geneva Conventions of 1949. The value of the rule referred to above depended on:

(1) the conception of what constituted a "military objective" and
(2) the manner in which attacks on military objectives was carried out.

After giving examples to illustrate those two points, Mr. Wilhelm observed that one advantage of defining military objectives would be to enable Governments to make practical provision for removing the civilian population from their vicinity. He would like to have the Experts' opinion on the steps taken for this purpose in different countries.

Other questions were linked with the idea of a military objective - questions, like that of industrial plants in their relation to the war effort, or that of target area bombing, which might lead to serious abuses. In his opinion it was questions such as these which should be examined when considering the subject of military objectives and the limitation of aerial attacks.

Professor Castren thought that it would be advisable to define the term "military Objective". He distinguished between "human military objectives", "material military objectives" and "mixed objectives", and gave examples of each. The enumeration, to be complete, should be adapted to the technical advances made in warfare.

In his opinion, target area bombing should be prohibited.
Dr. Mouton suggested that they should consult the lists of products designated as contraband of war. Factories producing the articles appearing on those lists would be considered as military objectives. In view of the large number of products listed, practically all industrial works would necessarily fall into this category. The situation was a most serious one, but it could be attenuated by deciding that only key factories were to be bombed.

Major Baxter pointed out that belligerents would have great trouble in distinguishing factories engaged on war production from other factories, or between transport not connected with the war and that used for military purposes. This was one of the reasons for the destruction of whole towns, and for target area bombing.

Dr. Jovanovic thought that it would be desirable to give a general definition of a military objective, and proposed that the adjective "military" should be applied to all persons or objects which, by reason of their duties or their nature, made a sufficiently great contribution to the war effort. On the other hand, persons or objects which were not concerned with or used in the war effort, or were too far removed from the theatre of war to have any connection with it, could not be considered as military objectives.

He suggested that irregular units, which respected the laws of war should be included in the enumeration proposed by Professor Castren.

H.E. Y.D. Gundevia asked to be shown the text of Dr. Jovanovic's proposal.

(The text was handed over by Dr. Jovanovic).

Major van Zinnicq-Bergmann thought the belligerents were practically certain to use atomic and hydrogen bombs. This being so, he saw no object in seeking to define a military objective. He also pointed out that one of the reasons for target area bombing was the camouflaging of the objectives. In his opinion the question of undefended towns and the question of safety zones should be given precedence over that of the limitation of aerial attacks to military objectives.

Mr. Siordet (Chairman) said that the study of this last question must be pursued. They should not be discouraged by the thought that in future wars the most extreme methods might be adopted. Military exigencies existed - but they must be restrained out of consideration for humanitarian requirements.
Dr. Costedoat made several remarks. He proposed to define a military objective as one, the destruction of which would, in the attacker's opinion, be of definite military value. It would, of course, always be open to Governments to advocate the evacuation of the civilian population to protect them from bombardments.

(The Commission adjourned at 11 a.m. and resumed work at 11.15 a.m.)

Professor Bourquin said that two tendencies were apparent; there were those who, in their desire to ensure the fullest possible protection of the civilian population, perhaps went so far as to disregard some military requirements; while others developed the notion of "military requirements" to the utmost extent, to the detriment of the protection of the civilian population. To what degree were those two tendencies compatible? In his opinion, they should not attempt at the moment to establish rigid rules. The first step should be to reaffirm the fundamental Red Cross principles, draw attention to the transformation which had taken place in the conditions of warfare, and stress the great danger to which the Red Cross principles would be exposed if Governments took no steps to curb the use of certain weapons.

Captain Falls thought it would be possible to find a definition of a military objective, as comprising the enemy's armed forces, his essential communications and the main and auxiliary plants of industries engaged in the production of war material. The definition of which he had only sketched the essential outline, should not be overload with detail.

He thanked Mr. Siordet for his remarks. There was no need to despair and the ICRC should make its great moral influence felt. The requirements of humanity must not be disregarded; and, faced with military exigencies, it would be the task of the ICRC to fight a moral combat. Its glorious past should not be forgotten.

Mr. Rumpf made some remarks on the subject of dams. Bombing raids on dams sometimes achieved their object, but always caused considerable damage in the vicinity. The notion of economic potential played a decisive role in aerial warfare and the choice of military objectives. Steps should be taken to remove the civilian population from the neighbourhood of such objectives.

Mr. Pilloud was of the opinion that a broad definition of a military objective should be accompanied by a restrictive enumeration of buildings which could never be considered as military objectives; he gave a few examples, and said that such buildings should be given precedence.
Dr. Costedoat also raised the question of dams, which should, he said, figure as one of the objectives to be preserved from destruction. He referred to dams which had been constructed in various countries, pointing out that their destruction by atomic or guided missiles would cause enormous suffering to the inhabitants. Radioactive contamination by water would have disastrous effects. On the other hand, the military value of such operations would be trivial, since armies had their own means of producing electricity. He therefore hoped, in the interest of all concerned, that a Convention could be drawn up to prevent the destruction of dams.

Dr. Mouton pointed out that the same problem arose in Holland in connection with the dykes, which should also be included in the list of non-military works suggested by Mr. Pilloud.

Dr. Enomoto made certain observations on Captain Falls' definition of a military objective. He hoped the very small factories would not be regarded as military objectives and, would, of course, like to see the bombing of buildings prohibited (particularly those used for philanthropic or cultural purposes).

H.E. Y.D. Gundevia agreed with Captain Falls' remarks and supported Mr. Pilloud's proposal. He further drew attention to the importance of the question of dams and dykes in India, and hoped that those works would be mentioned in the proposed list. The question might also be important in this connection.

Major Baxter pointed out that dams were necessary for the production of atomic energy.

Major-General Tobiesen agreed with Dr. Costedoat that the destruction of dams by the atomic bomb would constitute a serious danger for the civilian population.

Professor Castren made certain observations on the conception of contraband of war, and the difficulty of defining military objectives on the basis of the products mentioned in such lists. The definition of a military objective must be of a more restrictive character; he considered that Captain Falls' proposal would be a good basis for discussion.

Mr. Cahen-Salvador said that a great effort had been made to find a true definition. It was however to be feared that the definition could not comply with the requirements of Governments and their military advisers and, at the same time, with the humanitarian principles upheld by the ICRC. He was inclined to think that it would be preferable to enumerate military objectives, without attempting to define them, and for the enumeration
to be accompanied by a list of hard and fast exceptions — some of which were already included in existing Conventions — concerning for example, the protection of hospitals, children, transport carrying the sick, etc. The primary object of this method would be a limited number of exceptions which would be obligatory, whatever the military objectives, or the armed forces conception of them, might be.

Mr. Siordet (Chairman) observed that many speakers thought it was possible to find a definition of a military objective, but others had doubts on the subject. He suggested setting up a Sub-Committee to reach agreement on a text. He thought in any case, whatever the result of the Sub-Committee's deliberations might be, that it would be possible, as suggested by Professor Bourquin, to reaffirm the fundamental principles on which all action in that field should be based.

Dr. Costedoat proposed that the Sub-Committee should meet at 2.30 p.m.

The proposal having been adopted, Mr. Siordet (Chairman) thanked the Experts.

The meeting rose at 12.45 p.m.
COMMISSION OF EXPERTS FOR THE LEGAL PROTECTION OF CIVILIAN POPULATIONS AND VICTIMS OF WAR FROM THE DANGERS OF AERIAL WARFARE AND BLIND WEAPONS

Summary Record
of the meetings held at the Headquarters of the International Committee of the Red Cross at Geneva from 6 to 13 April 1954

Eighth Meeting
held on Friday, 9 April 1954,
at 3 p.m.

GENEVA
1954
Commission of Experts
for the legal protection of civilian populations
and victims of war from the dangers of aerial
warfare and blind weapons

Summary Record
of the
Eighth Meeting
held on Friday, 9 April 1954, at 3 p.m.

Chairman : Mr. F. Siordet (ICRC)

Present
Experts : Major Baxter
           Professor Bourquin
           Mr. Cahen-Salvador
           Professor Castren
           Dr. Costedoat
           Dr. Enomoto
           Captain Falls
           H.E. Y.D. Gundevia
           Dr. Jovanovic
           Dr. Mouton
           Mr. Rumpf
           Major-General Tobiesen
           Dr. Tsuzuki
           Mr. Yingling
           Major van Zinnicq-Bergmann

Representing the ICRC :

Mr. P. Ruegger
Mr. F. Siordet
Mr. J. Pictet
Mr. C. Pilloud
Mr. J. Wilhelm
Dr. Mouton referred to the remark which Professor Castren had made that morning about smuggling and about the ban on the destruction of merchant shipping. Such ships had been attacked during the last two world wars, one of the reasons being that they were armed, and not only defended themselves but also themselves took the offensive. It was undoubtedly most desirable for them to be proclaimed non-military objectives and protected, especially as neither the submarines nor the aircraft which attacked them could take their crews on board and save them from death; but the precedent of the last two wars would appear to make such a declaration difficult.

Professor Castren said that it was possible for armed merchant vessels to be military objectives, but it was obvious that neutral, or even belligerent, ships which were not armed should be immune. The non-observance of this rule had been considered a war crime by the Nuremberg Tribunal.

Mr. Yingling said that in his opinion the rule in question was no longer valid. Merchant ships, both armed and unarmed, had been destroyed by all the belligerents. Moreover, the manner in which the USA and the United Kingdom had conducted the economic war had shown that the very concept of contraband had lost its value. Belligerents would continue to capture and destroy material seized on a ship, if they considered that that material would be of use to the enemy.

Dr. Enomoto thought that a belligerent, before sinking a vessel, should first ascertain what class of vessel it was and the nature of the cargo carried, and make arrangements for the safety of the passengers and crew. This rule of international law should be observed.

Dr. Mouton stated that in his opinion the London Protocol of 1936, which had been ratified by 60 States, was still in force. The fact that one State had started to violate the law in question and that the others had followed its example, did not mean that the law itself had fallen into abeyance.

Captain Falls replied that the law referred to had been violated so generally that it must be regarded as having been rejected and no longer valid. It had, for example, often happened that a cruiser had preferred to sink a merchant ship, together with its crew, from a distance, rather than capture it and save lives, for fear of submarines in the vicinity.
Mr. Yingling agreed with the above view. There were many laws of war which were now out of date; they should not, therefore, attach undue importance to them, but try to see what could still be protected today.

H.E. Y.D. Gundevia remarked that merchant ships were easy to protect, as no one would ever waste an atom bomb on a target of such little importance. The Commission could try proposing their protection - at any rate when they were unarmed.

Dr. Mouton felt that an effort must at least be made to protect them against bombing from the air. International law was quite definite on the subject: it must be possible for the crew to be saved. This humanitarian principle, though doubtless often violated, must nevertheless be maintained, and the Commission should emphasize in its Report that bombing attacks of this nature were prohibited, and also that attacking ships were bound to give the crew of the vessel attacked the possibility of being saved.

Mr. Cahen-Salvador considered that if merchant ships could be destroyed, they must abandon the idea of safety zones, to reach which it was sometimes necessary to cross the seas.

Dr. Costedoat thought it unlikely that an aircraft would refrain from sinking a merchant vessel, which might very well be carrying troops and guns.

Mr. Yingling remarked to H.E. Y.D. Gundevia, who had repeated his earlier argument, that merchant ships no longer sailed alone, but always in convoys. It might be thought worth while dropping an atom bomb on a convoy.

Dr. Mouton said that a ship which agreed to be convoyed automatically renounced all claim to immunity. He had been thinking of the lone vessel which, when challenged by an aircraft, a submarine or another ship, had to justify its presence in those waters and show its cargo.

Mr. Siordet (Chairman) proposed that the Rapporteurs should take note of the desire which had been expressed and of the reservations made.

He asked the Commission to consider the following text which had been prepared, prior to the meeting, by the Working Party on military objectives:

**Military Objectives**

(1) Aerial attacks should be limited to military objectives.
(2) By military objectives should be understood objectives whose destruction presents obvious military advantages. The Commission is of the opinion that a judicious enumeration of the main military objectives has been established in Article 24, paragraph 2, of the Draft of the Commission of Jurists of 1922.

(3) Should in no case be considered as military objectives the buildings listed under Article 27 of the Hague Regulations of 1907, with the exception of scientific establishments working in the interests of national defence. Moreover, it would be desirable to include in this list river dams and the major maritime and fluvial dikes.

Mr. Pilloud (ICRC), commenting on the text, said that the Working Party had not thought it possible for the list to include houses and buildings used solely by the civilian population. It should be noted that the 1922 Commission of Jurists had not done so either.

He added that Captain Falls had reserved his opinion on the text.

Mr. Siordet (Chairman) proposed that members of the Commission should make whatever observations they wished on the text, leaving the task of drafting it in its final form to the Rapporteurs.

Mr. Baxter observed that under the terms of the text before them the following installations would be protected: mines, steelworks, important but little-known centres for the production of arms, unimportant but well-known centres for the production of arms, civil airlines, ports, power stations, pipe-lines, oil refineries, chemical industries, plants manufacturing civilian equipment, etc., etc. Such a rule could never be made binding.

Mr. Ruegger (ICRC) wished to bring certain considerations to the notice of members of the Commission. He pointed out that the action of the ICRC did not take place in the field of law. Its essential task was to intercede on behalf of war victims with States which had violated the law. Consequently, if the ICRC were to adopt conclusions which were contrary to existing law, or even involved restrictions of that law, it would be shouldering too great a responsibility in this insincere world. What was it to do? In the first place the ICRC could only note what the law was, and what it should be. Then, that the Commission affirmed the principle, accepted by international law, that the everyday lives of civilians must be protected. It was, however, essential not to let them cherish too many illusion, for there were elements which, by force of circumstances, destroyed the law. Remedies might next be
sought, for instance by establishing minimum rules for legal protection which, even if they did not entirely respond to their conception of international law, would allow of some hope and, further, by seeking to promote partial agreements, would ensure the protection of part of the civilian population. What the ICRC did not wish, however, was to recognise, and show that it recognised, the failure of international law.

(The meeting was adjourned)

M. Cahen-Salvador said that he wished to give full credit to the Working Party for its efforts but, for the following reasons, he did not think it possible to accept the text submitted to the Commission for discussion:

Par. 1 - As it was a question of laying down a rule of law, the sentence should not be in the conditional but in the present tense which implied an imperative statement.

Further, in the 1st paragraph, as in paragraph 2 and 3, reference was only made to buildings and works, that is to say material possessions. There seemed to be an omission of reference to human beings who were the actual object of the Commission's consideration and concern. It was essential to affirm in convincing terms (as in the Convention for the protection of civilians) the value of the human being, and the obligation for it to be protected against criminal attack in all cases where protection can be given.

Par. 2 - It was unfortunate that they had merely referred to a jurists' project of 1922 for the definition of military objectives. They thus gave the impression that they had gone thirty years back to find a definition of the objectives. How could they renounce their search for new standards to be applied, when scientific discoveries had caused so many drastic changes in medical equipment? Would they not finish by justifying an anachronism and show themselves to be powerless? A list of military objectives, presuming it was possible, should be complete, exhaustive, up to date and adapted to the information gained from the most recent experiments.

Par. 3 - The reference to the Hague Regulations of 1907 was still more obvious, since it merely appeared to consolidate regulations still in force, without completing or modifying the terms.
The text as a whole did not meet the anxious problems of the present day. It was a retrogradestep in regard to the 1949 Conventions, which it did not even mention, whereas the latter recommended and set forth new methods of protection. There was not even an allusion to safety, medical or neutral zones. It was necessary to insist that the zones should be put into effect, that they should be extended and be made more numerous and possibly be internationalized; their adaptation to future needs should also be recommended.

It ought to be possible to find other zones of refuge — particularly for children, who should at all cost be saved from suffering, mutilation and death. It was the Commission's duty to devote its efforts to the search for new methods of protection.

If they could not reach their aim, should it be impossible, they should admit their failure; they should warn the people of all countries and set them against the use of those destructive weapons.

Dr. Jovanovic also regretted that no reference to the human being appeared in the text submitted. He recalled the formula he had proposed at the morning meeting, i.e. persons or objects which, by reason of their nature of their duties, contributed to military activities, were military; persons who were not in any way directly or indirectly concerned with acts of war (or whose connection with them was so slight as to have lost all military character) were non-military. Those definitions should be inserted in the first paragraph. As for the third paragraph, it should mention the buildings in which the population lived. It would be advisable to add the following words to the last paragraph "... insofar as they are not used for military purposes".

Mr. Wilhelm was of the opinion that the text submitted by the Working Party could serve as an adequate working basis for the ICRC. There had been objections to it on the grounds that it did not contain a reference to the civilian population. It seemed to him, however, that the result was the same and that the underlying object of the text was still the protection of the civilian population. Moreover, the text in question could be preceded by the general wording which had been worked out the day before, relative to bombardments. The references to earlier texts had been introduced for practical reasons and on account of the lack of time; this method had already been used elsewhere, in particular in the Third Convention of 1949; it was merely a legal expedient. With reference to Paragraph 2, Major Baxter had, it is true, given a series of examples which showed that The Hague definition of 1922 did not entirely correspond to present circumstances; but he (Mr. Wilhelm) thought that, as they were above all concerned with ideas, what they should consider here was the spirit of the texts, i.e. that military objectives, to be open to attack,
must be of sufficient significance in relation to the war effort; that was the important point in the 1922 text.

Mr. Yingling observed that the text confirmed his opinion that they would not be able to define a military objective, any more than the Diplomatic Conference of 1949 had been able to. Although the first paragraph would seem to be acceptable to Governments, the second tried to make them accept something they had rejected in 1922; the result would be that they would also reject the first paragraph. No Government would definitely commit itself if no restrictions were placed on the general principles laid down in the present text. The reference to the 1907 rules in the third paragraph could remain, but the last sentence was too rigid and should include some restrictive clause.

Mr. Siordet (Chairman) noted that the text was far from meeting with unanimous approval. He suggested, therefore, that it should be included in the Final Report, accompanied by the principal objections that had been formulated.

Professor Castren said that he wondered if they could not achieve agreement on the text suggested by Captain Falls or, as Dr. Costedoat had suggested, on any other text which might be proposed.

Captain Falls feared that his text might not be thought altogether satisfactory; in his opinion, in any case, it was not.

Mr. Yingling seconded the Chairman's proposal.

Mr. Cahen-Salvador said that he also seconded the proposal; he requested that in the Final Report the authors of the various opinions expressed should remain anonymous.

The meeting rose at 6.20 p.m.
COMMISSION OF EXPERTS FOR THE LEGAL PROTECTION OF CIVILIAN POPULATIONS AND VICTIMS OF WAR FROM THE DANGERS OF AERIAL WARFARE AND BLIND WEAPONS

SUMMARY RECORD

OF THE MEETINGS HELD AT THE HEADQUARTERS OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS AT GENEVA FROM 6 TO 13 APRIL 1954

NINTH MEETING

HELD ON SATURDAY, 10 APRIL 1954

AT 9.30 A.M.

GENEVA

1954
Commission of Experts

for the legal protection of civilian populations
and victims of war from the dangers of aerial
warfare and blind weapons

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Summary Record
of the
Ninth Meeting

held on Saturday, 10 April 1954, at 9.30 a.m.

Chairman : Mr. F. Siordet (ICRC)

Present
Experts : Major Baxter
Professor Bourquin
Mr. Cahen-Salvador
Professor Castren
Dr. Costedoat
Dr. Enomoto
Captain Falls
H.E. Y.D. Gundevia
Dr. Jovanovic
Dr. Mouton
Mr. Rumpf
Major-General Tobiesen
Dr. Tsuzuki
Mr. Yingling
Major van Zinniq-Bergmann

Representing the ICRC :

Mr. P. Ruegger
Mr. L. Boissier
Mr. J. Pictet
Mr. C. Pilloud
Mr. J. Wilhelm
Mr. R. Olgiati was also present at the Meeting.
Mr. Siordet (Chairman) opened the Meeting and remarked upon the very great interest shown by the Press in the Commission of Experts.

He thought that a statement should be prepared for release to the Press at the close of the discussions.

(1) End of the discussion on the definition of a military objective

Professor Bourquin recalled that it had not been possible to reach unanimous agreement on the text considered at the previous meeting. Rather than publish the text in full and record this lack of agreement, it would, he thought, be preferable to place on record the unanimous agreement reached on Paragraphs 1 and 3 (with the exception of the reference to the dikes) and to add that some Experts had been of the opinion that the text could be completed by a reference to Article 24, II, of the draft Rules fixed by the Commission of Jurists in 1922, and the addition of large river dams to the list of objectives which should not under any circumstances be considered as military objectives.

In reply to a question raised by Dr. Mouton, Rapporteur, Professor Bourquin explained that he had intended his proposal to mention large maritime and fluvial dikes as well as fluvial dams, both under the same heading.

Professor Castren suggested an amendment to Paragraph 1 ("shall" instead of "should be") and Dr. Mouton proposed the inclusion of a reference to safety zones in Paragraph 3.

Mr. Cahen-Salvador and Mr. Yingling supported the suggestions made by Professor Bourquin, Professor Castren and Dr. Mouton, provided it was understood that the reference to safety zones concerned the zones as provided for in the Fourth Geneva Convention of 1949.

Mr. Siordet (Chairman) noted that the Commission was in agreement on the above points.

(2) Item 1 (c) of the amended Agenda
(Prohibition of aerial attacks on undefended towns, Hague Regulations - Article 25)

Mr. Wilhelm pointed out that the notion of an undefended town was still widespread among the general public. Originally intended to give immunity to a given locality against artillery
fire, it had retained its legal value in relation to aerial bombardments. But did it actually confer protection in practice? It could be assumed, from the tactical point of view, that a belligerent would abstain from bombing a town from the air when he expected to occupy the town in question.

But from a strategic point of view, how could it be hoped that he would spare a town which the adversary had declared to be open and undefended, if he considered that it contained military objectives?

Consequently, what remained of the definition given by the 40th Conference of the International Law Association (Amsterdam, September 1938) in Article 2 (Page 16 of the Collection of Documents)?

The ICRC would be interested to know the Experts' opinion on the present value of Article 25 of The Hague Regulations, which was still in force.

Major van Zinnicq-Bergmann said that he was pleased that the discussions had reached the present stage. Although he was pessimistic in regard to the practical value of legal protection in certain cases, he recognized that the concept of an open town was accepted by a great many military experts. If, therefore, they could arrive at a definition of the term "undefended town", and if the various Powers were able to make lists of such towns for their respective territories and have the lists accepted by those concerned, many human lives would no doubt be saved.

With regard to the points raised in the Commentary on the provisional agenda (Page 5, last paragraph but one), he was of the opinion that "armed measures of defence", entailing for instance the use of anti-aircraft guns, would cause the town to lose its character of an open town. He did not however think that the position would be the same for the various civilian defence measures which might be adopted to maintain order and to provide for all contingencies.

Dr. Mouton thought that the definition given in Article 2 mentioned above was not bad. He would like to know, however, if the English expression "munition stores or factories" was as general in meaning as "dépôt ou usine de munitions" in French.

After Captain Falls and Mr. Yingling had explained that the word "munition" in English had a more restrictive sense than "munitions" in French, Dr. Mouton said that the equivalent of the French expression would seem to be "factories contributing to the war effort".

Major Baxter said that he would gladly support Major van Zinnicq-Bergmann's suggestion. He wished to remind the Commission, however, that the idea of an "open town" could not be a unilateral one. It would not be enough for one the belligerents
to declare that a particular city was an "open town" for the opposing side to treat it as such. The latter, to agree to regard it as an open town and, in this connection, it was essential to verify that the town contained no military objectives; this verification should be carried out by neutrals, joint commissions or Red Cross representatives.

Mr. Siordet (Chairman) pointed out that the question of supervision was in fact the object of Item 3 of the Agenda.

Dr. Jovanovic admitted that the idea of an open town was very popular, but he feared that it might be inoperative. Belgrade and Zagreb had been bombed, in spite of being open towns.

It would be better, rather than follow an uncertain idea, for them to urge the prohibition of attacks on the civilian population, and limit bombing. Moreover, a town which contained no military objectives was made up of dwellings for civilians. These could be covered in the third paragraph of the text already approved dealing with the notion of military objectives.

Professor Castren agreed with the views expressed by Dr. Mouton and Major van Zinnicq-Bergmann. He thought it was advisable to speak of "towns where there are no military objectives", rather than refer to open towns, although the Second World War had shown examples of open towns which had been respected, such as Brussels, Paris and Rome.

Dr. Costedoat pointed out that the idea of an open or undefended town went back as far as 1907, when there was no such thing as aerial warfare. To day the use of guided missiles (of the Schmetterling type for instance) or of aircraft from bases several hundred kilometers away, made it impossible to institute supervision, which was essential if protection was to be accorded to any town. It was therefore advisable to abide by the principle that only military objectives could be attacked.

H.E. Y.D. Gundevia said that in spite of the encouraging nature of the discussion, they should beware of the difficulties which still existed. The International Law Association considered that the proximity of aerodromes invalidated the notion of an open town. The presence of lines of communication might have the same result. Then what town could be an open town? And what was meant by "civil defence? This was another idea which it would be difficult to keep within bounds.

On the other hand the evacuation of children - from London, for example - had given good results. The idea of places of refuge was therefore a good one and that was the line on which they should work. Jungle reserves had been set up where wild animals lived in peace; could not sanctuaries for human beings in the event of war be also decided upon?
Mr. Wilhelm suggested that, in view of the favourable opinion of the military experts, certain towns situated well behind the front line might meet the definition of open towns. He thought that a list of open towns, while it would be of great value, could not invalidate the legal provisions in force which would continued to be valid for towns not mentioned on the list. They should bear in mind that the belligerent who declared a town or area to be open immediately bound himself to cease all military activity in the said town or area. But this undertaking naturally implied the possibility of supervision.

The idea of the extension of the use of safety zones to categories of persons other than those mentioned in the Fourth Geneva Convention, deserved consideration.

Mr. Yingling was of the opinion that the idea of an undefended town, in the sense of Article 25 of the Hague Regulations, was out-of-date. It would be better to abandon this conception and try to include towns within safety zones. It was impossible to enumerate military objectives and it was necessary to keep to formulae which would be acceptable to Governments.

Major van Zinnicq-Bergmann said that he shared Mr. Yingling's opinion on the last point, but he thought that there was no need to abandon the idea of an undefended town. Towns such as Cambridge could certainly form the subject of an agreement between the United Kingdom Government and a possible enemy State, with a view to being considered as open towns, provided reciprocal arrangements were made in respect of any town designated by the enemy State concerned.

Dr. Enomoto thought that in the case of very large cities, some sectors could be defended, and others considered as open towns.

Dr. Mouton felt they must resist the tendency to consider that certain rules of international law were no longer valid. As the President of the ICRC had so rightly said, law remained law. Rules remained in force until they were repealed. The 1949 Geneva Convention relating to prisoners of war adapted the 1929 Convention to new circumstances, but States which had not yet ratified the 1949 Convention were still bound by that of 1929.

Mr. Yingling agreed with that remark, but said that he still thought that they should not lose sight of the fact that some provisions of international law were obsolete. The same thing applied, in municipal law, to laws that had not been repealed but had fallen into abeyance. Moreover, the International Court of Justice itself professed that international law was what Governments were prepared to accept.
Dr. Costedoat said that, in his opinion, ideas such as that of zones behind the front line were no longer realistic, since it was now possible for a bomber squadron to go from Irkutsk to Paris and to return after dropping its bombs. Henceforth the entire territory would have to be defended, and not only the front line. He even doubted whether it would be expedient to draw up a list of towns of refuge, or even of safety zones. Would they not serve to show the enemy where he could most safely parachute his airborne divisions? His last remark showed how advisable it would be to supplement the provisions for safety zones in the Fourth Geneva Convention of 1949 by a clause prohibiting the parachuting of troops in those zones.

Mr. Cahen-Salvador observed that the Commission seemed to agree unanimously on the question of safety zones or "localities". The latter term, which appeared in the text, made it unnecessary to speak of undefended towns. It would be advisable, therefore, to make no further reference to open towns. Brevity was conducive to mental clarity.

In connection with safety zones, it would be interesting to take into account a new idea which had emerged during the discussions, i.e. namely that zones could be both national and international, and be set up in certain continents for the use of the population of other continents.

Professor Castren pointed out that safety zones were only provided for certain categories of occupants (women, children, aged persons, the sick and wounded, etc.), whereas open towns were supposed, according to the law in force, to give general protection.

Mr. Siordet after briefly summing up the discussion, and laying particular emphasis on Professor Bourquin's proposal concerning the idea of military objectives, asked the Rapporteurs whether they had sufficient data for recording the Commission's opinion on the subject.

Dr. Mouton and Major Baxter having replied in the affirmative, Mr. Siordet opened the discussion on Item 3 of the Agenda.

(3) Item 3 of the Agenda

Precautions to be taken when bombing a military objective - Article 27 of the Hague Regulations and Article 23 (e) of the Hague Regulations (prohibition of the use of arms, projectiles or material calculated to cause unnecessary suffering).
Mr. Wilhelm pointed out that those precautions had been formulated a long time ago (Hague Rules, Article 25; drafted by the Commission of Jurists of 1922). Several Experts had referred to the obsolete character of the rules in question. Nevertheless, the idea that it was essential to avoid causing unnecessary suffering should be retained and, in view of the effect of certain blind weapons which were capable of destroying an entire population, the question now arose of how law and reality could still be reconciled.

Mr. Siordet (Chairman) reminded the members of the Commission that a draft resolution submitted during a previous meeting by Dr. Costedoat could serve as a basis for discussion.

Dr. Costedoat said that he doubted whether it would be possible to allow for prior warning in future.

One great benefit of the Fourth Convention of 1949 was the rule stipulating that civilian hospitals would be respected. But in order that they could be respected, they would have to be kept far away from military objectives.

The Hiroshima bomb (which was already ancient history) had a radius of action of 4 km. That radius was extended to 12 km. in the case of hydrogen bomb with chain reaction, and the thermic effect reached much farther.

With regard to the precision of the bombing, it should be recalled that if an aircraft dropped 8 bombs simultaneously from a height of 12 km, 95% of the bombs fell into an area of from 500 to 900 metres square, even using the best electronic bomb-sights. According to the "Revue du Génie militaire", only a quarter of the bombs would fall into an area of 200 to 300 m; these laws of dispersion should therefore be taken into account.

Further, if one spoke of radioactive weapons (and not merely of atomic weapons), it would be found by consulting a series of articles published by professors of American universities, and without revealing State secrets, that aircraft were also capable of spreading radioactive dust mixed with sand. This "death sand" could contaminate water over an enormous area, and it should be noted that a milligram of plutonium in the body had mortal effects. Further, radioactivity had a durable effect (a period of 75 days for zirconium). A Swedish publication quoted by the French newspaper "Le Monde" of April 9, 1954, stated that the USSR and the USA appeared to be on terms of equality as regards the production of radioactive substances. Those two Powers apparently each possessed several hundreds of kilograms.

It therefore seemed that the moment had come for that remarkable achievement of the League of Nations, the Geneva Protocol of 1925 which prohibited the use of asphyxiating bases, to be extended to radioactive weapons.

The Bulletin of Atomic Scientists had referred recently to a cobalt sheath for the hydrogen bomb (which was itself ten
times more powerful than the Hiroshima bomb). The effect of the cobalt bomb would be multiplied to an extent which might be conceived by recalling the Krakatoa eruption, when the ashes had gone right round the world.

Up to the present time the cobalt bomb was only a scientists' project. No practical steps had yet been taken to produce it; surely the production of such a bomb should be prevented?

It was most important for the ICRC to concern itself with such problems.

The combined use of incendiary and explosive bombs had an object from the military point of view, as it was natural to try to open up a target to which one wished to set fire, in order to increase the effect of the conflagration. Could one at least prevent the use of delayed-action bombs? The question remained open.

It should be noted that the alleged inaccuracy of blind weapons was being reduced as a result of scientific work now in progress.

Dr. Tsuzuki said that, as it was getting late, he merely wished to say that at the next meeting he would give some information on the effect of radioactive dust, which had caused burns on Japanese fishermen after the recent atomic tests in the Pacific Ocean. He had directed the Commission of Specialists which examined the men in question at Tokyo University. His report on the subject had been distributed to the Commission.

Dr. Jovanovic said that he would also speak on the subject during the next meeting. They could try to protect non-combatants, either by prohibiting a direct attack on the civilian population (although there still remained the danger due the spreading of the dust and the continuously increasing size of the danger zone), or by enacting legal restrictions on armaments, or again, by combining both methods.

The meeting rose at 1.20 p.m.
COMMISSION OF EXPERTS FOR THE LEGAL PROTECTION OF CIVILIAN POPULATIONS AND VICTIMS OF WAR FROM THE DANGERS OF AERIAL WARFARE AND BLIND WEAPONS

Summary Record

of the meetings held at the Headquarters of the International Committee of the Red Cross at Geneva from 6 to 13 April 1954

Tenth Meeting
held on Monday, 12 April 1954
at 9.30 a.m.

GENEVA
1954
Commission of Experts

for the legal protection of civilian populations
and victims of war from the dangers of aerial
warfare and blind weapons

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Summary Record

of the

Tenth Meeting

held on Monday, 12 April 1954, at 9.30 a.m.

Chairman: Mr. F. Siordet (ICRC)

Present

Experts : Major Baxter
Professor Bourquin
Mr. Cahen-Salvador
Dr. Costedoat
Dr. Enomoto
Captain Falls
H.E. Y.D. Gundevia
Dr. Jovanovic
Professor La Pira
Dr. Mouton
Mr. Rumpf
Major-General Tobiesen
Dr. Tsuzuki
Mr. Yingling
Major van Zinnicq-Bergmann

Representing the ICRC :

Mr. P. Ruegger
Mr. F. Siordet
Mr. L. Boissier
Mr. J. Pictet
Mr. C. Pilloud
Mr. J. Wilhelm

Miss Lucie Odier, Mr. P. Carry and Mr. R. Olgiati,
Members of the ICRC, were also present at the meeting
Mr. Siordet (Chairman) opened the meeting, and said that Mr. Wilhelm would speak on certain administrative points.

Mr. Wilhelm requested the Experts to inform him of the amendments they wished to have made to the summary records of the meetings. The records, the first part of the report and the booklet on safety zones published by the ICRC were at the Members' disposal from that date.

Mr. Siordet (Chairman) welcomed Professor La Pira, Mayor of Florence.

Professor La Pira explained his reasons for accepting the invitation of the ICRC. He had assumed the mission, in his capacity as Mayor of Florence, in order to plead for the protection of towns and cities, the essential structure of civilization. He proclaimed their sacred right to existence and emphasized that States were not legally entitled to destroy those living units, a heritage of past generations which should be passed on to the generations of the future. The present generation was the depository, the fideicommissioner of that common property. He asked that those cities' right to existence should be formally recognised by States and that towns and areas essential for the very existence of mankind should be preserved from any threat of mortal destruction. He requested the Experts to couch that wish in legal and technical terms.

Mr. P. Ruegger (President of the ICRC), said that everyone present was greatly moved by Mr. La Pira's words. He had underlined the importance of an essential problem - that of safeguarding the greatest possible proportion of the civilian population. In this domain, the findings of the Commission should not only emphasise the principles of international law, but also serve to support the action of the Red Cross.

H.E. Y.D. Gundavia expressed his gratitude to Professor La Pira. He said that he also had felt some hesitation in sitting, in his civilian capacity, among experts on the question of aerial bombardments. In his opinion humanitarian principles should be reaffirmed in as comprehensive a manner as possible, and it should be stressed that no protection of civilians was possible without a limitation of the power of atomic weapons.

Mr. Siordet (Chairman) thanked H.E. Y.D. Gundavia for his remarks. He suggested that the work of the Commission should be resumed at the point where it had been left off on Saturday morning, after Dr. Costedocat's remarks. He would call upon Dr. Tsuzuki, whose preliminary report on the Medical effect of the Bikini ashes had been distributed to the Members, to speak.
Dr. Tsuzuki suggested that a few minor corrections should be made to his report. He then made comments on the report under the following three headings:

1. The nature and biological effects of the ashes;
2. Clinical characteristics and symptoms;
3. The danger of radioactive substances,

and handed round an album of photographs of persons affected, (their condition, according to the last news received, was improving). He referred to Dr. Costedoat's remarks concerning the danger of radioactive substances, and emphasized the precautions which should be taken in connection with the production of atomic energy, even for non-military purposes. There was some danger from radioactive particles set free by atomic energy and carried down streams and rivers. The effects of radioactive ashes could last for centuries and thus affect future generations. He pointed out that plants for the production of atomic energy for peaceful purposes could, in the event of war, be rapidly converted into plants for the production of atomic weapons. Thus, even the non-military use of atomic energy was not without its dangers.

Dr. Enomoto said that he was supplying the Secretariat with data on the effects of the hydrogen bomb at Bikini. He hoped that the information would be of use to the Experts.

Mr. Yingling enquired whether there were any prophylactic measures which could be taken against the effects of radioactive ashes.

Dr. Tsuzuki replied that when the ashes were visible/to get rid of all contaminated clothing, to leave the area where the dust was present, and to wash the body thoroughly. Detectors should be used in the case of invisible ashes, and the same precautions taken as mentioned above. At the present time there were no other means of protecting oneself against the effects of radioactive ashes.

Mr. Yingling asked how the fact that persons had been exposed to invisible ashes had been established.

Dr. Tsuzuki replied that instruments for detecting and measuring the degree of contamination were employed.

Professor Bourguin asked to be given a copy of Dr. Costedoat's communication of the previous Saturday.

Mr. Siordet (Chairman) said that they could now realise how very far the effect of certain modern arms exceeded the
purpose for which they were used, as regards both space and time. He proposed that after the meeting had adjourned for a few minutes, they should investigate the possibilities in the legal field of limiting the use of such arms.

(The meeting adjourned from 11.15 to 11.30 a.m.)

On resuming, Mr. Siorët (Chairman) called upon Dr. Costedoat to speak.

Dr. Costedoat said that M. Tsuzuki's survey was of the greatest interest, but they should remember that atomic bombs had a far more deadly effect by their mechanical and thermic action than by their radioactivity. As they were aware, the question was present under discussion by the United Nations, with a view to their prohibition, and the result depended in particular upon an agreement between the United States and the Soviet Union. The question of the dispersal of radioactive dust by aircraft was, however, a different matter. Had the moment not come for the International Committee of the Red Cross to draw the attention of Governments to the havoc which those substances might cause, and to the fact that their effect might be extended to future generations?

Professor Castren said that there should be a fait et reasonable relation between the military advantage sought and the harm caused to civilians during a bombardment. Heavy bombs should not be used when the same object could be achieved by smaller missiles. Lack of precision in bombing was one of the principal factors of the suffering caused to civilians and indiscriminate bombing should be prohibited. The question of the legitimacy of a bombing operation was dependent on the position of the objective; the further it was from the front line, the greater the consideration which should be given to the problem of the civilian population. Blind weapons should be prohibited. Atomic or hydrogen bombs should only be used for very important objectives and on condition that the suffering caused should not be out of proportion to the object in view. Their prohibition could be based on the fact of their radioactive effect, which should be condemned on the same grounds as asphyxiating gases. He wished to draw attention, in that connection, to the Geneva Protocol of 1925 whose provisions, in his opinion, also applied to radioactive substances.

Mr. Siorët (Chairman) asked Dr. Costedoat whether he agreed with Professor Castren's remarks.
Dr. Costedoat pointed out that in 1925 there had been no question of radioactive substances likely to be used for military purposes. It therefore seemed difficult to believe that the provisions of the Geneva Protocol could apply in that case.

Professor Castren said that the wording of the Geneva Protocol was general, and very comprehensive, and covered all new weapons.

Captain Falls observed that the atomic bomb and the hydrogen bomb were not merely new weapons. They were in a category by themselves, inasmuch as no previous weapon had had such horrifying consequences, not only for the present generation but also for the generations to come. It was only by insisting upon those points that a new war could perhaps be avoided. A unilateral decision not to have recourse to the atomic bomb would be impossible, as it would be playing into the adversary’s hand. The ICRC could draw public attention to the position.

Major Baxter said that it was not possible to limit bombardment to the objective itself. An airman could not aim his bombs with absolute precision, and the enemy did everything possible to lessen the degree of accuracy of the bombing. The only means of sparing the population of a town would be to remove all military objectives from the area. It was not really correct to speak of “blind” weapons, since a certain degree of precision could always be attained, but it should be admitted that the use of atomic and hydrogen bombs made the question of the protection of civilians most difficult to solve. Was it possible to envisage the protection of the civilian population when atomic and hydrogen bombs were used? That was the whole question.

Mr. Siordet (Chairman) recalled a historical fact. Before the 1864 Convention came into force, it was taken for granted that the enemy wounded were never given care and that ambulances could be fired upon, and yet those mistaken ideas had been amended. Was it impossible to believe, now that humanity was faced with a situation a thousand times more serious, that similar steps could not be taken to meet the unavoidable lack of precision of the new weapons?

Mr. Cahen-Salvador thought that he should sum up his remarks made at a previous meeting by a suggestion which defined their spirit and conclusions. If, after their exchange of views, it was obvious that, under present circumstances, no effective means of protection from the new weapons could be found, their duty was to suggest that the International Committee of the Red
Cross should inform the people that the lives of all human beings were threatened, that the most atrocious suffering could prevail, and that if humanity does not wish to be completely destroyed, it can only be saved by the prohibition of modern weapons under international supervision. He added that his suggestion was only put forward as a basis for discussion.

Dr. Mouton asked whether Dr. Costedoat's proposal was being adopted by the Commission.

Mr. Paul Ruegger (President of the ICRC) reminded the Members that he had himself taken part in the Geneva Conference of 1925. The authors of the Protocol had wished to give the document very wide scope and to prohibit all weapons which could produce noxious effects. He suggested that the International Court of Justice might, perhaps, be asked to give its opinion on the subject.

Dr. Costedoat agreed with Mr. Ruegger's suggestion. He called to mind that during one of the Bikini tests, it was asserted that the bomb dropped from a height of 12,000 metres, fell at a distance of 700 metres from the target, although the aircraft was equipped with the most efficient bomb-sights then available.

Dr. Mouton emphasized that the Commission's report should reflect the feeling of all the Experts and that their agreement (even tacit) with Dr. Costedoat's proposal would give it more weight. He thought that the Geneva Protocol covered the question of radioactivity, but there would be no harm in giving an interpretation of the Convention and, if the Governments did not consider that sufficient, in asking for the opinion of the International Court of Justice.

Mr. Yingling did not think it would be expedient to give advice to Governments on the matter. For his part it would be difficult, as his Government had not yet ratified the Protocol in question.

Professor Bourquin thought that the spreading of radioactive substances should be prohibited. He was inclined to think that this prohibition was already covered by the Protocol of 1925; it was a question of interpretation. He supported the idea expressed by Dr. Costedoat and entirely agreed with the suggestion put forward by Mr. Cahen-Salvador.
Dr. Mouton expressed a keen desire to see unanimous agreement reached on Dr. Costedoat's proposal.

Mr. Yingling felt that each Member's attitude in this respect should be dictated by his views on the subject.

Mr. Siordet (Chairman) briefly summed up the discussion.

(The meeting rose at 1.15 p.m.)
COMMISSION OF EXPERTS FOR THE LEGAL PROTECTION OF CIVILIAN POPULATIONS AND VICTIMS OF WAR FROM THE DANGERS OF AERIAL WARFARE AND BLIND WEAPONS

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Summary Record

of the meetings held at the Headquarters of the International Committee of the Red Cross at Geneva from 6 to 13 April 1954

Eleventh Meeting
held on Monday, 12 April 1954
at 3 p.m.

GENEVA
1954
Commission of Experts

for the legal protection of civilian populations
and victims of war from the dangers of aerial
warfare and blind weapons

Summary Record

of the

Eleventh Meeting

held on Monday, 12 April 1954, at 3 p.m.

Chairman: Mr. F. Siordet (ICRC)

Present Experts:
Major Baxter
Professor Bourquin
Mr. Cahen-Salvador
Dr. Costedoat
Dr. Enomoto
Captain Falls
H.E. Y.D. Gundevia
Dr. Jovanovic
Dr. Mouton
Mr. Rumpf
Major-General Tobiesen
Dr. Tsuzuki
Mr. Yingling
Major van Zinnicq-Bergmann

Representing the ICRC:

Mr. P. Ruegger
Mr. F. Siordet
Mr. J. Pictet
Mr. C. Pilloud
Mr. J. Wilhelm
Mr. Siordet (Chairman) asked the Members to start considering the question of the final press release, a draft of which would be submitted by the ICRC.

He also proposed that in order to gain time the meeting on Tuesday morning should start at 8.30 a.m.

It was so agreed.

Dr. Jovanovic said that the discussion that morning had made the question clearer but had not made its solution any simpler. The use of new weapons of great devastating effect made selective bombing restricted to military objectives impossible; there was in addition the danger of radioactive substances. How could the terrible risks which civilians can be limited? It would be possible for instance by an intergovernmental agreement on radioactive substances, either to reaffirm the validity of the Hague principles or to extend the existing prohibition of the use of toxic gases to radioactive substances which have, to some extent, a similar action. The effects of target area bombing could be limited either by removing the civilians and buildings entitled to protection, or by placing restrictions on the bombardments themselves. It seemed difficult, however, to remove buildings such as hospitals, as the area of destruction would continually increase; and there was, moreover, a limit to the extent to which civilian dwellings could be dispersed. A practical solution appeared to be impossible. Consequently, the solution of the problem of the protection of civilian populations could only be found in the limitation of bombardments. Their duty was to frankly and loyally proclaim that they were powerless to find an adequate solution, apart from an agreement between governmental authorities on the limitation of, practically unlimited, destructive bombing. They had to put their faith in the wisdom of mankind and to hope that such an agreement would be possible.

Mr. Wilhelm, noting that some experts were doubtful of the possibility of limiting bombardments to military objectives alone, wondered whether it would not be advisable to take up the suggestion made by Mr. Ruegger, and endeavour to show what the law is or should be. The Commission had already succeeded in defining rules in regard to Items 1 and 2 of the Agenda; for Item 3 they could try to formulate or to reaffirm general principles concerning the precautions to be taken during the bombing of a military objective, on the lines already set forth in the Hague Regulations.

Mr. Siordet (Chairman) thought that the adoption of one of the drafts submitted by H.E. Y.D. Gundevia and Mr. Cahen-Salvador would not preclude an attempt being first made to formulate the law as it should be.
H.E. Y.D. Gundevia explained that he had attempted to draft some sentences with a view to assisting the ultimate Report. On the first two paragraphs - the impossibilities of civilian defence - we seemed to be all agreed. But he was anxious that humanitarian principles were not lost sight of. In fact we have agreed that these must be reaffirmed; and the definitions we have arrived at might be added to the next as drafted by him at the end.

The draft read as follows: -

The Commission of Experts,

having thoroughly discussed and deliberated upon the problem of the legal protection of populations and war victims from the dangers of aerial warfare and blind weapons, and having considered all the opinions expressed, particularly by the experts connected with the armed forces,

comes to the conclusion that if the destructive power of the weapons of war remains unlimited, as would be the case with atomic and various nuclear weapons, selective bombing of targets in order to distinguish between combatants and non-combatants or legitimate military targets and protected areas would be impossible.

The Commission is therefore definitely of the opinion that if the population is to be adequately protected the primary condition is the limitation of the destructive power of the weapons of war.

The Commission is of the opinion that it would be failing in its responsibilities to present and future generations if it did not reaffirm the general principles of humanity accepted in the past by way of laws of war or minimum humanitarian standards which belligerents would be expected to follow in case of hostilities, in order to eliminate unnecessary suffering both to combatants and non-combatants.

And with this end in view the undermentioned recommendations are made ......

Major van Zinnicq-Bergmann drew attention to Article 26 of the Hague Regulations, with which it would be difficult for the military authorities to comply, in particular if they were to avoid losing the effect of surprise. The Article had in fact never been respected, except perhaps in occupied countries.
Dr. Enomoto thought that a system of international supervision must in any case be a necessary counterpart of any agreement reached for the restriction of the use of certain weapons.

Mr. Yingling stated, in reply to Major van Zinnicq-Bergmann's remarks, that in Korea for instance, the population had often been warned beforehand, although no doubt this was sometimes done with a view to its psychological effect.

Professor Castren said that during the bombing of the Ruhr the population had also often been given prior warning. He admitted that in aerial warfare there were few occasions when such warnings could be given; he asked Major van Zinnicq-Bergmann whether he thought that the principles laid down in Article 23 (e) and (g) retained some measure of validity.

Major van Zinnicq-Bergmann replied that their moral value remained intact, but they had been outpaced by reality. The aircraft of the present day only carried bombs whose effects carried over a wide area, and which could not be dropped by pilots with any degree of precision. The two regulations were no longer of any practical value.

Mr. Pilloud pointed out that the responsibility for defining a military objective had been left to the attacking force. The warning stipulated in Article 26 seemed to be essential, for the civilian population would not know if it was or was not close to such an objective. The warning could take a general form, the belligerent defining what he considered as constituting a military objective.

Mr. Rumpf thought that they should also emphasize another legal principle - the prohibition of reprisals, in particular in aerial warfare. Thus, after the bombing of Rostock the belligerents could, and should, have stopped the bombing which went under the name of reprisals, as the score was level, each having become even with his adversary.

Dr. Mouton pointed out that the principle set forth in Article 23 (e) was one of those which would always remain in force, for a weapon would never be designed for the special purpose of causing unnecessary suffering. On the other hand, it could always be argued that the exigencies of war prevented the application of Article 23 (g); this latter rule was therefore without value.
Mr. Cahen-Salvador reminded the Commission that it had been convened for the purpose of seeing if the existing rules were practicable, or if new rules were needed. In his opinion the Hague Convention was still valid; its validity had incidentally been reaffirmed in Article 154 of the Fourth Convention of 1949. The rules set forth in Articles 22 to 25 continued to exist and would appear to be applicable to all aerial weapons. These provisions were no doubt inadequate, but they had not found any which really met the case of modern weapons. This was what H.E. Y.D. Gundevia and he suggested should be made known, while recalling the necessity for respecting and applying the measures provided by the Fourth Convention of 1949: safety zones, neutralized zones, etc., and the obligation set forth by that same Convention to take all possible measures to attenuate the sufferings of civilians. Emphasis should be placed upon the organisation of places of refuge for sheltering the population, upon the active and constant collaboration which should be granted in research work, and in the development of medical science, in order to cure if possible, or at least to attenuate, the suffering caused by the new weapons.

Mr. Siordet (Chairman) said that answers were required to the following questions:

(1) Were the provisions of the Hague Convention of 1907 applicable to aerial warfare?

(2) Should special precautions be recommended for the use of aerial weapons whose effect was not limited to the target?

In this latter case, both active and passive precautions appeared to be necessary. As regards passive precautions (safety zones, treatment of the sick, etc.), it was unanimously agreed that the provisions of the 1949 Convention should be applied. With regard to active precautions the view had already been expressed that the attacker who possessed a weapon of very great destructive effect would use it, even if its use caused damage over an area which went beyond the limits of the objective in view. The problem was a most serious one, and called for reflection. If the above opinion proved correct the fate of millions of human beings might depend upon a miscalculation, a faulty aim or negligence.

(The meeting was suspended)

Dr. Mouton asked if the Commission was of the opinion that the provisions of Article 23 (e) (and possibly (g)) and Article 27 were applicable to aerial warfare.

Mr. Yingling considered that, in view of the methods of warfare practised at the present time, the value of the Hague
Regulations had definitely decreased. Article 26, for instance, appeared to be applicable, if at all, only in the case of a war waged with pre-atomic weapons.

Captain Falls said that he shared the above opinion.

H.E. Y.D. Gundeva did not feel the Commission could declare that the Hague Regulations were only valid for a pre-atomic war; that would be a retrograde step which would take them back to the period before 1907. It was necessary to reaffirm that the 1907 Regulations were still valid in 1954.

Dr. Mouton observed that the Fourth Hague Convention referred to war on land. What they had to ascertain, therefore, was whether the principles it laid down could be extended to aerial warfare, in particular where arms of the normal type were used.

Professor Castren considered that the principles in question were valid for all forms of warfare.

Captain Falls pointed out that any such distinction between pre-atomic and atomic weapons would in fact sanction the use of the latter.

Major Baxter said that a number of questions might be discussed under this heading: Did the Hague Regulations apply to aerial warfare? Did they apply to A and H bombs? Did they reflect the international law now in force? Had they the value of law? If so, would they be of value in connection with the protection of civilians, and did they prohibit the use of atomic weapons?

Dr. Jovanovic thought that the solution of such questions was a matter of common-sense. There was no reason for only applying the 1907 Regulations to aerial warfare of the normal type, and not to atomic warfare. The essential object in view was to prevent unnecessary suffering, and such suffering was caused by the atomic bomb.

Professor Bourquin was of the opinion that the prohibition of unnecessary suffering was a principle of law, which was independent of the Hague Convention, and that its value was general, absolute and immutable and applicable to all forms of warfare.

Dr. Mouton asked if he could assume that Article 23 (e) and (g) applied to all forms of aerial warfare.

The Commission agreed that it did.
Dr. Mouton enquired whether Article 26 also applied in the case of atomic bombardment.

Mr. Yingling said that he doubted whether that Article, which had been so generally disregarded, was applicable in any case.

Major van Zinnica-Bergmann was of the opinion, in spite of all that had been said on the subject, that prior warning was exceptional.

Professor Castren considered that the Article was still in force, but was seldom applied in practice.

Mr. Cahen-Salvador expressed the opinion that a rule of law remained in force until it was modified. A violation of the rule left it unchanged.

Major van Zinnica-Bergmann agreed with Mr. Cahen-Salvador's point of view. They had however to ascertain whether the Regulations of 1907 were also applicable to aerial warfare. And again, could Governments be asked to adhere to those principles?

Dr. Mouton remarked that the 1907 Regulations had been modified to a certain extent (in relation to those of 1899) in order to cover aerial warfare.

Major Baxter said that since the Hague Regulations had been expressly modified in 1907 to take account of aerial warfare (as, for example, in the case of Article 25), it could be concluded that the provisions of the 1907 Convention applied to aerial bombardment. It would be difficult to state that Article 26 had ever been actually violated, inasmuch as that article leaves it largely to the discretion of the military commander whether notice of bombardment is to be given.

Professor Castren pointed out that the rule contained in Article 25 had been extended in 1907 to include aerial warfare; it had been thought unnecessary to make a similar change in the wording of Articles 26 and 27.

Mr. Yingling did not think that it could be asserted that Hague Convention IV applied to other forms of warfare than those for which it had been established (land warfare), except in cases where this was expressly stated.
H.E. Y.D. Gundevia also thought that the regulations were still valid, and that the fact should be reaffirmed by the Commission. They might then, perhaps, be better respected in future.

Professor La Pira remarked that there was always a due relation between the existing circumstances and the law - between fact and theory. Legal rules were always linked with a definite solution; they changed when the situation changed. The law should therefore be adapted to the new situation created by the atomic arm.

Dr. Mouton asked whether the passive precautions referred to by the Chairman were possible, and desirable.

Major van Zinnica-Bergmann referred to Article 27 in that connection; it was the duty of the persons attacked to indicate the buildings which they thought should be spared. It would be necessary to improve the method of marking such buildings, as it had been found inadequate during the war. White balloons marked with a red cross could, for example, be used to indicate hospitals, etc.

Dr. Mouton thought that so far as active precautions were concerned, the acceptance of Article 23 (e) and (g) already provided a partial answer to the question raised by the Chairman.

Mr. Siordet (Chairman) thought that it was for the military authorities to say what precautions were possible. The difficulty experienced by aviators in sighting their objectives had already been pointed out. Could the launching of missiles be prohibited when it was known that the effect in the vicinity of the target would extend over a considerable area, or last for a considerable time?

Dr. Costedoat was of the opinion that aviators always tried to be as accurate as possible in reaching the military target, and had no interest in letting bombs go astray. Nevertheless they could not avoid the consequences of strayed bombs, or take accurate aim through great clouds of smoke from the fires caused by bombing.

Dr. Mouton proposed that he should insert the various opinions voiced, in his report, as it did not seem possible to find a solution which was agreeable to all in the short time which remained.

His proposal was adopted.

The meeting rose at 6:25 p.m.
COMMISSION OF EXPERTS FOR THE LEGAL PROTECTION OF CIVILIAN POPULATIONS AND VICTIMS OF WAR FROM THE DANGERS OF AERIAL WARFARE AND BLIND WEAPONS

Summary Record
of the meetings held at the Headquarters of the International Committee of the Red Cross at Geneva from 6 to 13 April 1954

Twelfth Meeting
held on Tuesday, 13 April 1954
at 8 a.m.

GENEVA
1954
Commission of Experts

for the legal protection of civilian populations
and victims of war from the dangers of aerial warfare
and blind weapons

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Summary Record

of the

Twelfth Meeting

held on Tuesday, 13 April 1954, at 8 a.m.

Chairman: Mr. F. Siordet (ICRC)

Present Experts:
Major Baxter
Professor Bourquin
Mr. Cahen-Salvador
Professor Castren
Dr. Costedoat
Dr. Enomoto
Captain Falls
H.E. Y.D. Gundevia
Dr. Jovanovic
Professor La Pira
Dr. Mouton
Mr. Rumpf
Dr. Tsuzuki
Major-General Tobiesen
Mr. Yingling
Major van Zinnicq-Bergmann

Representing the ICRC:

Mr. P. Ruegger
Mr. J. Pictet
Mr. C. Pilloud
Mr. J. Wilhelm

Mr. R. Olgiati, Member of the ICRC, was also present at the meeting.
Mr. Wilhelm requested the Experts to inform the Secretariat of the corrections they wished to have inserted in the Summary Records. The alterations would be made and a complete set of Records sent to each member after the Conference closed.

Mr. Siorèt (Chairman), in agreement with the Vice-Chairman, Professor Bourquin, suggested that they should in turn (1) consider the Report drafted by Mr. Mouton with Major Baxter's help, (2) discuss the proposals drafted by Mr. Cahen-Salvador and H.E. Y.D. Gundevia, (3) prepare a statement for issue to the Press, and (4) consider the examination of Items 3 and 4 of the Agenda.

(1) Consideration of the Report of the Commission

Dr. Mouton (Rapporteur) thanked Major Baxter for his help in drafting the Report; he said that after Professor La Pira's masterly survey during the Tenth Meeting, the Report he was submitting might seem lacking in moral inspiration. The Rapporteur's intention was that it should be completed by some general conclusion which would take the moral factor into account.

In response to a request by Dr. Costedocat, Mr. Siorèt (Chairman) said that Professor La Pira's survey would be mimeographed and distributed to the Members.

The Commission then proceeded to examine Dr. Mouton's Report, page by page.

Page 1

The Commission decided, on Professor Bourquin's proposal, to replace the words "no precise rules govern aerial bombardment" in the last paragraph on the first page, by the words "the rules in force have become insufficient, and at times inadequate to govern aerial bombardment".

Following a remark by Professor Castren, it was left to the ICRC to complete the list of the Experts' names by indicating their qualifications and nationality from the data it had prepared.

Page 2

At the suggestion of Professor Bourquin, the second sentence in paragraph 2 was completed by the addition of the words "if the use of these weapons is not prohibited by an international agreement of a political character".
At Mr. Cahen-Salvador's request, Dr. Mouton agreed to insert a moral element, borrowed from Professor La Pira's survey, in the first part of the Report.

Page 3

Mr. Yingling thought that the English version of the second paragraph on page 3 lacked clarity.

Dr. Mouton replied that it corresponded to the idea expressed by Dr. Enomoto who accepted the wording given in the Report. The text was quite clear in French, but a new English version would be sought to prevent any misunderstanding.

Mr. Wilhelm requested that, in that case, the sentence should start with the words "Certain members expressed....".

Wishing to give satisfaction to Mr. Cahen-Salvador, the Commission agreed that paragraphs 4 and 5 should be switched, in order to close Chapter I with the concrete proposals contained in the last paragraph but one; the latter would start with the words "The members unanimously agreed ....", thus emphasizing the positive character of the clause.

Following an observation by Dr. Jovanovic, the Commission added the following words after the word "countries" at the end of the first sentence at the top of page 3: "or in countries in which means of transport are not well-developed and economic resources are limited".

At the suggestion of Professor Castren, the word "ou" was substituted for "située" in the French text (paragraph 5, line 3) and, at Mr. Cahen-Salvador's suggestion, the words "in neutralized zones, in international zones," were inserted after the words "in neutral territories," (paragraph 5, line 3).

H.E. Y.D. Gundavia proposed that, in view of the high quality of the Report, it should be approved as it stood. The Commission was prepared to accept his suggestion, but Dr. Mouton (Rapporteur) said that he would like to have the opinions of members who wished to make comments on the subject matter of the remainder of the Report.

Mr. Siordet (Chairman) proposed that the Report should, in consequence, be approved Chapter by Chapter.
Chapter II

Dr. Jovanovic said that he would like to see the words "that is to say, direct and indiscriminate aerial attacks on the civilian population" inserted after the words "which might be framed" on Page 4, paragraph 1, line 16.

This proposal not having been supported, the text was adopted without alteration. Dr. Jovanovic's suggestion would be recorded in the minutes.

Chapter III

Mr. Cahen-Salvador and Dr. Costedoat were of the opinion that it was undesirable to draw aircraft bombers' attention to ministers directly concerned with the conduct of warfare and scientists engaged in the development of new weapons (page 4, last three lines of the second paragraph).

Major Baxter thought that the allusion might, on the contrary, serve as a salutary warning.

Dr. Mouton (Rapporteur) pointed out that in their list of protected places the Rapporteurs had thought it advisable to include civilian internee camps, although they had not been mentioned during the discussions. They had thought that this addition would meet with the approval of the Commission.

Mr. Pilloud suggested that prisoner of war camps should also be mentioned.

Dr. Mouton (Rapporteur) did not consider that this last addition was advisable, as the Commission of Experts was only concerned with the civilian population.

The Commission then decided to insert a reference to the Fourth Geneva Convention of August 12, 1949 relative to the protection of civilian persons in time of war, at that place in the Report.

Chapter III was adopted.

Chapter IV was adopted.
Chapter V

At Dr. Costedoat's suggestion, the Commission replaced the word "est" by "serait" in the last line but one on page 7 of the French text.

Chapter V was adopted.

The Report, thus amended, was adopted unanimously.

Mr. Siordet (Chairman) thanked and congratulated the Rapporteurs in the name of the whole Commission.

(2) Proposals tabled by Mr. Cahen-Salvador and H.E. Y.D. Gundevia.

H.E. Y.D. Gundevia said that he thought that either of the two texts could serve as a basis for the discussion.

Mr. Cahen-Salvador pointed out that the texts did not result from mutual agreement but from two corresponding points of view which only differed as regards form. He would be quite willing for precedence to be given to the text proposed by the Ambassador of India.

Mr. Siordet (Chairman) thanked Mr. Cahen-Salvador and H.E. Y.D. Gundevia, and submitted the latter's text for the Experts' consideration.

Mr. Yingling thought that the point of view expressed at the beginning of the proposal was too gloomy. He also pointed out that there was some precision in all bombardments. Further, instead of the term "combatants and non-combatants" he would prefer to say "members of the armed forces" and "the civilian population".

H.E. Y.D. Gundevia then suggested qualifying the term "impossible" by the adverb "virtually".

Mr. Siordet (Chairman) considered that it would be an advantage to adopt the terminology of the Geneva Convention, Article 3, and to use the formula "persons taking no active part in the hostilities, as understood in the 1949 Conventions, and those protected by the said Conventions".
On the proposal of Mr. Yingling, the Commission adopted the wording "persons taking part in hostilities and those not taking part in them".

Dr. Costedoat thought that emphasis should be laid, not only on the atomic bomb but also on heavy bombardments and great conflagrations, the destructive power of which could not be disregarded.

Mr. Yingling supported the above proposal.

Mr. Siordet (Chairman) asked Dr. Costedoat if it would not be advisable, at that stage, to take the idea of the use of the weapons into consideration.

The Commission agreed with the above suggestion.

At the suggestion of Professor Bourquin, and after an exchange of views between Mr. Yingling, H.E. Y.D. Gundevia and Mr. Siordet (Chairman), the Commission substituted the word "adequately" for the words "at all" (paragraph 2, line 2).

Major van Zinnicq-Bergmann said that he hoped that the reference to the responsibility towards future generations would not be omitted (paragraph 3, line 2).

H.E. Y.D. Gundevia was of the same opinion.

The proposal was adopted.

Mr. Siordet (Chairman) requested Mr. Cahen-Salvador to give his opinion on the text as a whole.

Mr. Cahen-Salvador suggested introducing a reference in the text to the protective measures for which provision was made in 1949 by the Diplomatic Conference of Geneva, in particular hospital zones, safety zones and neutralized zones. He read out a draft text.

Dr. Mouton thought that Mr. Cahen-Salvador's idea was already mentioned in the text, since reference had been made to the general principles of humanity accepted by way of laws of war.

Dr. Costedoat said that he supported Mr. Cahen-Salvador's suggestion and would be glad if reference could be made to the 1949 Convention.
Professor Bourquin feared that the insertion of that idea into the text might weaken its effect.

Mr. Yingling agreed with Professor Bourquin.

Mr. Cahen-Salvador suggested inserting the formula in an introductory note of some kind.

Mr. Siordet (Chairman) announced the Commission's agreement with this last suggestion. He himself proposed replacing the word "fully" at the beginning of H.E. Y.D. Gundevia's text by the word "thoroughly".

H.E. Y.D. Gundevia's text, thus amended, was adopted.

Dr. Mouton enquired whether the text should appear in the Report.

Mr. Yingling thought that it would be advisable.

Mr. Cahen-Salvador was of the same opinion.

The Commission decided to include the text in the Report.

(3) Press Release

The Commission agreed to make public H.E. Y.D. Gundevia's text, as just adopted.

Dr. Mouton asked whether new instructions would be given concerning their relations with journalists.

Mr. Yingling thought that some secrecy was still necessary.

Mr. Siordet (Chairman) observed that that would be in conformity with the policy which had been agreed upon at the beginning of the Conference.

H.E. Y.D. Gundevia enquired whether so much reserve vis-à-vis the Press was justified.
Dr. Costedoat thought that it was for the ICRC to express its opinion on the matter, rather than its guests.

Professor Bourquin asked whether the ICRC would communicate the Report to the National Red Cross Societies.

Mr. Siordet (Chairman) replied that the Red Cross world was really one great family, and that the results of the work of the Commission would be communicated to the National Societies after the Experts had been sent the Report.

Dr. Jovanovic thanked Mr. Siordet for the above information.

Mr. Siordet (Chairman) stated that the United Nations had asked to be given the documents and the Report, for the information of the Disarmament Commission and the Security Council.

Mr. Cahen-Salvador thought that communication of the documents could not be refused.

Mr. Siordet (Chairman) said that the documents requested would be transmitted to the Disarmament Commission. He expressed his thanks to the Experts and requested them to make known their individual opinions on the items of the Agenda with which it had not been possible to deal. Summing up the recent work of the Commission, he gave a general outline of what had been done and concluded by stating that it was the duty of all concerned to create centres of peace in their own circles and encourage a spirit of peace around them.

Mr. Ruegger, President of the ICRC, told the Experts how valuable their frankness and realistic attitude had been. They had not in any way disguised the terrible dangers to which civilians were exposed by the development of the weapons of war. He would like to pay a tribute to all who had taken part in the discussions - diplomats, military experts, doctors and jurists - and to the work of the Rapporteurs.

There was reason for hope; bombardments of the civilian population had not given the results which had apparently been anticipated in some military circles; and it should be noted in particular that the validity of the great principles of humanity had never been questioned during their discussions. He thought that the force of public opinion might be of great assistance to the International Committee in its crusade for the protection of humanity.
M. Cahen-Salvador said that he wished to express, on his colleagues' and his own behalf, their warmest thanks to the President, Vice-President and Members of the International Committee of the Red Cross, who had given them such a cordial welcome. It was on account of the pleasant atmosphere which had prevailed throughout the discussions, the efficient guidance of their Chairman and the humanitarian feelings shown by all who had shared in the debates, that they had been able to reach their conclusions.

The meeting rose at 12.30 p.m.